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U.S.

**INTERSTATE COMMERCE COMMISSION REPORTS**

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**VOLUME 70**

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**DECISIONS OF THE  
INTERSTATE COMMERCE COMMISSION  
OF THE UNITED STATES**

**(FINANCE REPORTS)**

**JUNE TO DECEMBER, 1921**

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**REPORTED BY THE COMMISSION**

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## INTERSTATE COMMERCE COMMISSION.

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EDGAR E. CLARK, *Chairman.*

CHARLES C. McCHORD.  
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FREDERICK I. COX.

GEORGE B. MCGINTY, *Secretary.*

COMMISSIONER CLARK resigned August 31, 1921; on October 3, 1921, COMMISSIONER McCHORD was elected chairman.

On September 1, 1921, FREDERICK I. Cox became a member of the commission.

70 I. C. C.

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# INTERSTATE COMMERCE COMMISSION REPORTS.

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FINANCE DOCKET No. 1390.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, ROCHESTER & PITTSBURGH RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

---

*Submitted June 17, 1921. Decided June 25, 1921.*

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1. Certificate issued authorizing the construction of a branch line of railroad in Indiana County, Pa.
2. Request for permission to retain excess earnings granted.

*John G. Whitmore* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Buffalo, Rochester & Pittsburgh Railway Company, a carrier by railroad subject to the interstate commerce act, on April 9, 1921, filed an application for a certificate of public convenience and necessity, pursuant to paragraph (18), section 1, of the interstate commerce act, authorizing it to construct a branch line of railroad in Indiana County, Pa. Permission is requested, under paragraph (18), section 15a, to retain the excess earnings of the line to be constructed.

The proposed line will extend from a connection with the Jacksonville branch of the applicant at Aultman Branch Junction, in a generally southerly direction, a distance of 10,400 feet, terminating in a tract of coal land owned by the Pittsburgh Gas Coal Company. It is stated that the construction of this branch will permit the development of approximately 4,000 acres of bituminous-coal territory, which is not served by any railroad and for which, at the present time, there is no outlet. No stations will be established on this branch. It is claimed that three coal-mining companies will open mines along this proposed line, from which applicant estimates that

5,000 tons of coal will be shipped daily after the mines have been fully developed. This traffic will move to points in the Eastern States and Canada. The estimated cost of this branch is \$183,633, and it appears that there is a reasonable prospect of its earning a satisfactory return.

Upon the facts presented we find that the present and future public convenience and necessity require the construction by the applicant of the branch line of railroad, approximately 10,400 feet in length, in Indiana County, Pa., described in the application, and we further find that applicant should be permitted to retain for a period not to exceed 10 years from the date the branch is completed and put in operation, but not later than June 30, 1933, all or any part of its earnings derived from such new construction in excess of the amount otherwise provided in section 15a of the interstate commerce act, for such disposition as it may lawfully make, conditioned, however, upon the completion of the work of construction on or before June 30, 1923.

A certificate and order to that effect will be issued accordingly.

---

*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction and operation by the Buffalo, Rochester & Pittsburgh Railway Company of a branch line of railroad in Indiana County, Pa., described in the report aforesaid.

*It is ordered,* That the Buffalo, Rochester & Pittsburgh Railway Company be, and it is hereby, authorized to construct and operate said branch line of railroad: *Provided, however,* that the construction of said new line of railroad shall be completed on or before June 30, 1923.

*It is further ordered,* That the Buffalo, Rochester & Pittsburgh Railway Company be, and it is hereby, given permission to retain for a period not to exceed 10 years from the date the said new line of railroad is completed and put in operation, but not later than June 30, 1933, all or any part of its earnings in excess of the amount otherwise provided in section 15a of the interstate commerce act, for such disposition as it may lawfully make of the same: *Provided, however,*

that this permission is expressly conditioned upon the keeping of applicant's accounts in such manner that the earnings derived from said branch line of railroad be segregated from those of applicant's other line or lines.

*And it is further ordered,* That said Buffalo, Rochester & Pittsburgh Railway Company, when filing schedules establishing rates and fares on said branch line of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1408.

## IN THE MATTER OF THE APPLICATION OF THE CENTRAL RAILROAD COMPANY OF NEW JERSEY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

---

*Submitted June 21, 1921. Decided June 25, 1921.*

---

Certificate issued authorizing the Central Railroad Company of New Jersey to acquire in part, to construct in part, and to operate a branch line of railroad in Cumberland County, N. J.

*Alexander H. Elder* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Central Railroad Company of New Jersey, a carrier by railroad subject to the interstate commerce act, on April 22, 1921, filed an application for a certificate of public convenience and necessity, pursuant to paragraph (18), section 1, of the interstate commerce act, authorizing it to acquire in part, to construct in part, and to operate a branch line of railroad in Cumberland County, N. J. The Board of Public Utility Commissioners of New Jersey has signified its approval of the application.

The proposed branch would include (a) about 3.13 miles of plant track, constructed by the Seabrook Farms Company, which the applicant contemplates purchasing from that company; (b) about 1.89 miles of track heretofore constructed by the applicant as an industrial spur to connect its New Jersey Southern division with the above plant track; and (c) about 1 mile of additional track which applicant proposes to construct as an extension to said plant track, a total of 6.02 miles of track. It is proposed to unite these segments of track and to put them in operation in interstate commerce. This branch line will extend from a point of connection with the applicant's New Jersey Southern division, in Bridgeton, in a generally northerly direction, a distance of approximately 4.8 miles, with a branch extending therefrom to the right-of-way line of the West Jersey & Seashore Railroad, a distance of approximately 1.22 miles. The purpose of the proposed line is to provide improved facilities for

the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Along the line of this proposed branch there is located one market-gardening farm of 3,000 acres, the property of the Seabrook Farms Company, of which 2,000 acres are now under intensive cultivation. It appears that in the territory to be served there are more than 20,000 acres. Most of this land is already under normal cultivation and a large part of it is suitable for intensive cultivation. The principal crops raised are vegetables, which are largely grown under glass and require quick transportation service to obtain the best marketing results. A part of this territory is served by the West Jersey & Seashore Railroad, and it is estimated that the proposed branch will effect a saving of from 3 to 24 hours in placing these perishable products on the New York market. Some of the produce raised in this territory now moves over the applicant's line, but this routing requires truck hauls of from 5 to 10 miles to applicant's station at Woodruffs or at Bridgeton, and thus involves considerable inconvenience and expense. These truck hauls will be materially reduced by the construction of the proposed branch line.

The applicant estimates that over 15,000 cars of freight annually will move over the proposed branch. The inbound traffic will consist of fertilizer, building materials, and coal. The Seabrook Farms Company maintains a cold-storage plant with a capacity of 500 cars, which is available for use by farmers. It is stated that the nature and variety of the products, together with the storage facilities provided therefor, will insure a movement of traffic throughout the year. It is proposed to establish one station adjacent to the cold-storage plant of the Seabrook Farms Company, and probably another at the end of the branch.

The applicant proposes to pay for the track to be acquired from the Seabrook Farms Company the actual cost of construction, amounting to \$140,213.84; and the Seabrook Farms Company will grant to the applicant, free of charge, 6 acres of land for right-of-way purposes. The Seabrook Company, a holding company which controls the Seabrook Farms Company, also proposes to grant to the applicant, without charge, 23 acres of land for right of way. The total cost of constructing the proposed new line, about 1 mile in length, is estimated by the applicant to be \$73,604.88. It appears that there is a reasonable prospect that the proposed branch will earn a satisfactory return.

Upon the facts presented we find that the present and future public convenience and necessity require the acquisition in part, the construction in part, and the operation by the applicant of the

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branch line of railroad, approximately 6.02 miles in length, in Cumberland County, N. J., described in the application. A certificate and order to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding have been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the acquisition in part, the construction in part, and the operation by the Central Railroad Company of New Jersey of the branch line of railroad in Cumberland County, N. J., described in the report aforesaid.

*It is ordered,* That the Central Railroad Company of New Jersey be, and it is hereby, authorized to acquire in part, to construct in part, and to operate said branch line of railroad.

*It is further ordered,* That the Central Railroad Company of New Jersey, when filing schedules establishing rates and fares on the said new line of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

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## FINANCE DOCKET No. 1445.

IN THE MATTER OF THE APPLICATION OF THE INTER-  
STATE RAILROAD COMPANY FOR AUTHORITY TO  
ISSUE CAPITAL STOCK.

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*Submitted May 26, 1921. Decided June 25, 1921.*

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Authority granted to issue \$3,000,000 of additional capital stock.

*J. F. Bullitt* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Interstate Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue and sell \$3,000,000, par amount, of capital stock, the proceeds thereof to be used for the purchase of property for, and the construction of, an extension of its railway. No objection has been made to the granting of the application.

In a proceeding under *Public-Convenience Certificate to Interstate R. R.*, 67 I. C. C., 141, authority was granted to the applicant to construct an extension of its railway from the present terminus at Norton, Wise County, Va., down the valley of the Guest River to a connection with the Carolina, Clinchfield & Ohio Railway, a distance of about 25 miles. Applicant shows that the cost of construction of this extension, including the purchase of a certain portion of the railroad and right of way of the Norton & Northern Railway, which railroad and right of way will constitute a portion of the completed extension, will be approximately \$2,967,500. The proceeds of the \$3,000,000 of capital stock are to be used to defray this cost.

The applicant's authorized capital stock is \$10,000,000, of which \$4,387,100 has been issued and is outstanding. All of this stock, except six shares qualifying directors, is held by the Virginia Coal & Iron Company. The applicant states that sale of the proposed stock at par to that company is contemplated, that no contract therefor has been made, but that the officers and directors of the Virginia Coal & Iron Company have informally approved the purchase.

We find that the issue by the applicant of not exceeding \$3,000,000, par amount, of capital stock for the purposes mentioned (a) is for

a lawful object within the corporate purposes of the applicant and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Interstate Railroad Company be, and it is hereby, authorized to issue not exceeding \$3,000,000, par amount, of its capital stock, and to sell said stock for cash, at not less than par, to the Virginia Coal & Iron Company, the proceeds from such sale or sales to be used solely for the purchase of property for, and the construction of, an extension of its railroad from Norton, Wise County, Va., down the valley of the Guest River to a connection with the Carolina, Clinchfield & Ohio Railway, a distance of about 25 miles, as authorized by our certificate in Finance Docket No. 38; any excess in the proceeds above the amount necessary for such purpose to be held for such use as the commission may hereafter approve.

*It is further ordered*, That said stock shall not be sold, pledged, repledged, used, or otherwise disposed of by the applicant, in any manner or for any purpose, except as herein authorized.

*It is further ordered*, That the applicant shall, for the period ending June 30, 1921, and for each six months' period thereafter, report to this commission within 30 days from the close of such period all pertinent facts relating to (1) the issue and sale of such capital stock and (2) the application of the proceeds, including account or accounts charged, and continue to file such periodical reports until all of the capital stock shall have been issued and all proceeds from the sale thereof so applied; each report to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to such capital stock, or dividends thereon, on the part of the United States.

## FINANCE DOCKET No. 1435.

## IN THE MATTER OF THE APPLICATION OF THE CUMBERLAND &amp; MANCHESTER RAILROAD COMPANY FOR AUTHORITY TO ISSUE SECURITIES, TO PLEDGE BONDS, AND TO ASSUME LIABILITY FOR CERTIFICATES AND NOTES.

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*Submitted May 9, 1921. Decided June 27, 1921.*

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## Authority granted:

1. To pledge \$500,000 of first-mortgage 40-year 5 per cent gold bonds with the Secretary of the Treasury as collateral security for a loan to the applicant from the United States under section 210 of the transportation act, 1920, as amended.
2. To issue and sell, at a price to yield not more than 8 per cent per annum, \$125,000 of general-mortgage 6 per cent gold bonds, the proceeds thereof to be used for additions and betterments to road and equipment.
3. To assume obligation or liability in respect of \$100,000 of 6 per cent equipment-trust certificates, series A, (a) by entering into an equipment-trust agreement under which the certificates will be issued by the Union Trust Company of Pittsburgh; (b) by indorsing upon each certificate its guaranty of the payment of the principal and dividends thereof; and (c) by entering into a lease of the trust equipment, thereby agreeing to pay rent sufficient to pay the principal and dividends of such certificates.
4. To assume obligation or liability in respect of the payment of the principal and interest of 22 promissory notes aggregating \$98,882.68, issued by Charles F. Heidrich under date of April 18, 1919, in connection with the construction of the Horse Creek Railroad.
5. To assume obligation or liability in respect of the payment of the unpaid principal, amounting to \$21,700, and of the interest, of three promissory notes issued by Charles F. Heidrich in connection with the purchase of certain equipment.

Terms and conditions prescribed.

*H. R. Dulany, jr., and Dishman, Tinsley & Dishman* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Cumberland & Manchester Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to pledge \$500,000 of first-mortgage 40-year 5 per cent gold bonds with the Secretary of the Treasury as security for a loan of \$375,000, to be made to the applicant by the United States under section 210 of the transportation act, 1920, as amended; (2) to issue \$125,000 of general-mortgage 6 per cent bonds under a proposed mortgage

to be made by the applicant to the Union Trust Company of Pittsburgh and to sell them at a price to yield not more than 8 per cent per annum; (3) to assume obligation or liability in respect of \$100,000 of 6 per cent equipment-trust certificates, series A, to be issued by the Union Trust Company of Pittsburgh; (4) to assume obligation or liability, pursuant to a certain agreement between Charles F. Heidrich and the applicant, dated April 15, 1921, in respect of the payment of the principal and interest of 22 promissory notes aggregating \$98,882.68, issued by Heidrich under date of April 18, 1919, in connection with the construction of the Horse Creek Railroad; and (5) to assume obligation or liability, pursuant to that agreement, in respect of the payment of the unpaid principal, amounting to \$21,700, and of the interest, of three promissory notes of various dates and maturities issued by Charles F. Heidrich in connection with the procurement of certain equipment. No objection has been made to the granting of the application.

The applicant owns 22.99 miles of railroad and leases 2.57 miles, making a total of 25.56 miles of road operated, all of which is located wholly within the State of Kentucky. It has an authorized capital stock of \$1,000,000, of which \$500,000 is now issued and outstanding; and its principal indebtedness (exclusive of certain equipment obligations) consists of 19 two-year 6 per cent collateral-trust notes, aggregating \$875,000, which matured January 1, 1921, and which are secured in part by the pledge of \$500,000 of the applicant's first-mortgage 40 year 5 per cent gold bonds, due in 1956. These bonds constitute the full amount authorized under the first mortgage dated January 8, 1916, made by the applicant to the Union Trust Company of Pittsburgh, for the purpose of completing, equipping, and operating its railroad, and paying debts incurred for such purposes. The applicant submits that its present financial structure is inadequate to meet outstanding obligations and present and future needs. It has, therefore, entered into an agreement, dated April 15, 1921, with Charles F. Heidrich, individually and as trustee, providing, among other things, for certain adjustments in its accounts with said Heidrich and others. Its first-mortgage bonds were originally issued to Heidrich in part payment for the applicant's line of railroad, but by said agreement Heidrich transferred and assigned the applicant all right, title, and interest therein.

By our certificate No. 98, in *Loan to Cumberland & Manchester R. R.*, 67 I. C. C., 608, 700, we have heretofore approved the making of a loan of \$875,000 from the United States to the applicant under section 510 of the transportation act, 1920, as amended, to be secured by the pledge of \$500,000 of first-mortgage bonds. The loan will enable the applicant to pay the indebtedness represented by the

\$375,000 of collateral-trust notes above mentioned, thus releasing the bonds from their present pledge.

Under a general gold-bond mortgage to be made by the applicant to the Union Trust Company of Pittsburgh, under date of January 1, 1921, the applicant proposes to issue \$125,000 of 6 per cent gold bonds maturing January 1, 1931, and to sell them at a price to yield not more than 8 per cent per annum, for the purpose of making certain additions and betterments to its road and equipment set forth in the application. This mortgage will be a lien upon all of the applicant's property, subject, however, to the lien of the first mortgage and to any other liens now in existence. The proposed additions and betterments were specified as one of the conditions of the loan authorized by our certificate No. 93, and will enable the applicant to improve the quality of its service to the public.

The applicant has agreed in an instrument in writing, dated May 16, 1921, filed with us and referred to in our certificate No. 93, that it would issue and sell \$100,000 of equipment-trust notes at a price to yield not more than 7 per cent per annum to the investor, and purchase equipment equal in value to the amount of the proceeds.

The applicant proposes to acquire equipment of the following description and estimated cost:

2 new consolidated locomotives.....	\$78,000
10 secondhand open-top cars.....	7,500
2 secondhand caboose cars.....	2,000
2 secondhand passenger cars.....	7,500
2 secondhand flat cars.....	2,000
1 secondhand wrecking car.....	1,000
1 ditching car.....	2,000
Total estimated cost.....	100,000

In compliance with this agreement it is proposed that Charles F. Heidrich, termed the lessor, the Union Trust Company of Pittsburgh, termed the trustee, and the applicant shall enter into an agreement creating Cumberland & Manchester Railroad equipment trust, series A. Upon acquiring title to and possession of the above-described equipment, Heidrich will lease it to the applicant and, by the equipment-trust agreement, assign the lease and convey the title to the equipment to the trustee for the proportionate benefit of the holders of \$100,000 of trust certificates to be issued thereunder. The lease between Heidrich and the applicant will provide for use and possession of the equipment by the applicant, for which it will pay to the trustee rent sufficient to pay and discharge the principal of the trust certificates and the dividends thereon, as and when the same shall become due and payable, and certain taxes and other charges. Title to the equipment will remain in the trustee until all rent shall



have been paid in conformity with the terms of the lease, whereupon such title will be conveyed to the applicant for a nominal consideration. Each trust certificate will entitle the bearer, or registered owner thereof, to an interest in the trust to the amount of \$1,000, and attached thereto will be dividend warrants evidencing the right of the holder thereof to dividends on the principal of the certificate at the rate of 6 per cent per annum from the date thereof, payable semi-annually to and including the designated date of maturity. Certificates to the amount of \$2,000 will mature on January 1, 1922, and to the amount of \$7,000 on the 1st day of January in each year thereafter, to and including January 1, 1936. By the agreement the applicant will guarantee prompt payment of the principal of the certificates and of the dividends thereon, and it will indorse its guaranty to that effect upon each certificate. It appears that Heidrich, individually and as trustee for certain others, has agreed to purchase these certificates when issued at a price to yield not more than 7 per cent per annum.

Charles F. Heidrich has heretofore caused to be constructed a branch line known as the Horse Creek Railroad, which extends along Horse Creek in Clay County 2.57 miles and connects with the applicant's line at Horse Creek Junction, and has leased this line to the applicant. To cover the cost of construction of the branch, Heidrich executed and delivered 25 promissory notes, dated April 18, 1919, aggregating \$109,382.68, payable to L. L. Richardson serially from 1920 to 1924, inclusive, with interest at the rate of 6 per cent per annum from and after maturity, and secured by a mortgage of the same date, on the branch line. Payment of notes amounting to \$10,500, due in 1920, was made by Heidrich. Twenty-two notes, aggregating \$98,882.68, remain unpaid. The applicant now proposes to assume payment of the principal of these notes and interest thereon, as required by the agreement with Heidrich, dated April 15, 1921, which provides for cancellation of the lease of the branch line and transfer of the property to the applicant. It appears that a considerable portion of the applicant's traffic originates on the branch line and that acquisition thereof is therefore in the applicant's interest.

By agreements of lease dated March 22, 1920, and September 25, 1920, the applicant leased equipment from Heidrich as follows:

One consolidated locomotive.....marked C. & M. R. R. No. 55.  
 One 10-wheel-type locomotive.....marked C. & M. R. R. No. 22.  
 One combination passenger and  
 baggage coach.....numbered 102.  
 One passenger coach.....numbered 153.  
 One 4-wheel caboose.....marked C. & M. R. R.—232.  
 Three box cars.....numbered 806, 807, and 808.



The leases provide in effect that the applicant shall pay a monthly rental for the equipment, and that after the payment of \$28,750, title to the equipment will vest in the applicant upon the payment of a nominal consideration. In order to raise the funds necessary to purchase this equipment, Heidrich borrowed \$26,950 and executed and delivered three promissory notes, aggregating that amount, assigning, as collateral security therefor, the lease agreements executed with the applicant. The notes were issued under dates, for amounts and terms, and to parties, respectively, as follows:

Party.	Date.	Term.	Amount.
D. L. Walker.....	Mar. 22, 1920	Demand.....	\$14, 200
First National Bank of Manchester, Ky.....	Oct. 5, 1920	.....do.....	6, 000
J. H. Buckhannon.....	Oct. 15, 1920	27 months.....	6, 750

On December 31, 1920, Heidrich had reduced the aggregate principal of these notes to \$21,700. Under the agreement of April 15, 1921, the lease agreements as between Heidrich and the applicant were canceled and title to the equipment vested in the applicant, which agreed that it would assume payment of Heidrich's indebtedness with respect to said equipment. Authority for such assumption of obligation is now sought. The acquisition of this equipment upon the terms mentioned appears to be in the interest of the applicant.

We find that (1) the proposed pledge of first-mortgage bonds with the Secretary of the Treasury, (2) the proposed issue and sale of general-mortgage bonds, (3) the proposed assumption of obligation or liability in respect of equipment-trust certificates, and (4) the proposed assumption of obligation or liability in respect of promissory notes executed by Charles F. Heidrich as aforesaid (a) are for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Cumberland & Manchester Railroad Company be, and it is hereby, authorized to pledge \$500,000, principal amount, of first-mortgage 40-year 6 per cent bonds, issued under and pursuant to, and secured by, the first mortgage dated January 3, 1916, made by the applicant to the Union Trust Company of Pittsburgh, with the Secretary of the Treasury as security for a loan of \$375,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended.

*It is further ordered,* That the Cumberland & Manchester Railroad Company be, and it is hereby, authorized to issue \$125,000, principal amount, of general-mortgage 6 per cent gold bonds, under and pursuant to, and to be secured by, a proposed general mortgage to be made by the applicant to the Union Trust Company of Pittsburgh, under date of January 1, 1921, and to sell said bonds at a price to yield not more than 8 per cent per annum; the proceeds of said bonds to be used for additions and betterments to the applicant's road and equipment as set forth in the application.

*It is further ordered,* That the Cumberland & Manchester Railroad Company be, and it is hereby, authorized to assume obligation or liability in respect of \$100,000, aggregate principal amount, of certificates of the Cumberland & Manchester equipment trust, series A, for the purpose of acquiring possession and use of, and ultimately title to, certain equipment described in the application; each certificate entitling the bearer or registered owner thereof to an interest in said trust and to semiannual dividends thereon at the rate of 6 per cent per annum; (1) by entering into an agreement with C. F. Heidrich, as lessor, and the Union Trust Company of Pittsburgh, as trustee, which will create said trust and provide for the issue of said certificates with attached dividend warrants by the trustee and thereby guaranteeing the payment of the principal of the certificates, and of the dividends thereon, when and as the same shall become due and payable; (2) by indorsing upon each certificate its guaranty of the payment of the principal thereof, and of the dividends thereon; and (3) by entering into a lease of said equipment with C. F. Heidrich and thereby agreeing to pay rent sufficient to pay the principal of the certificates, the dividends thereon, and certain other charges; said agreement and lease to be in the form submitted with the application, and said certificates, warrants, and indorsements of guaranty to be in the respective forms set forth in the agreement; the certificates, agreement, and lease to be dated as of the date of issue and making thereof, and the certificates to be in denominations and to mature, and the dividends thereon to become due and payable, as specified in the agreement and outlined in the

report of this commission: *Provided, however,* That such certificates be sold at a price to yield not more than 7 per cent per annum.

*It is further ordered,* That the Cumberland & Manchester Railroad Company be, and it is hereby, authorized to assume obligation or liability in respect of the payment of the principal and interest of 22 promissory notes aggregating \$98,882.68, dated April 18, 1919, maturing serially from 1921 to 1924, inclusive, and bearing interest at the rate of 6 per cent per annum from and after maturity, made by Charles F. Heidrich to the order of L. L. Richardson to cover the cost of construction of a certain line of railroad described in the application as the Horse Creek Railroad.

*It is further ordered,* That the Cumberland & Manchester Railroad Company be, and it is hereby, authorized to assume obligation or liability in respect of the payment of the unpaid principal, amounting to \$21,700, and of the interest, of three promissory notes made by Charles F. Heidrich in connection with the purchase of certain equipment, as follows: (a) A demand note for \$14,200, face amount, dated March 22, 1920, and payable to the order of D. L. Walker, with interest at the rate of 6 per cent per annum, of the principal of which \$10,200 remains unpaid; (b) a demand note for \$6,000, face amount, dated October 5, 1920, and payable to the order of the First National Bank of Manchester, Ky., with interest at the rate of 6 per cent per annum, of the principal of which \$5,500 remains unpaid; and (c) a promissory note for \$6,750, dated October 15, 1920, and payable to the order of J. H. Buckhannon on December 31, 1922, with interest at the rate of 7 per cent per annum, of the principal of which \$6,000 remains unpaid.

*It is further ordered,* That the applicant shall not issue, sell, pledge, repledge, or assume any obligation or liability in respect of, any of the securities aforesaid, unless and until it shall have first acquired and obtained from Charles F. Heidrich, individually and as trustee, any and all right, title, and interest in and to the equipment leased by said Heidrich to the applicant by agreements dated March 22, 1920, and September 25, 1920, and in and to said Horse Creek Railroad, together with the appurtenances.

*It is further ordered,* That, except as herein authorized to be issued, sold, and pledged, and the proceeds thereof to be used, said securities shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, nor shall said proceeds be used, in any manner or for any purpose, unless or until so ordered by this commission.

*It is further ordered,* That within 10 days after the execution and delivery of said general mortgage, said equipment-trust agreement, and said agreement of lease, the applicant shall file with this com-

mission certified copies thereof in the form in which they were executed.

*It is further ordered,* That within 30 days after June 30, 1921, and after the close of each period of six months thereafter, the applicant shall report to this commission in writing all pertinent facts relating to (1) the issue, sale, and pledge of bonds; (2) the issue and sale of equipment-trust certificates; (3) the assumption of obligation or liability in respect of notes of Charles F. Heidrich; (4) the application of the proceeds of said securities, including the account or accounts charged; (5) the release of bonds from pledge; and (6) the payment or other satisfaction of said equipment-trust certificates and said promissory notes; such reports to be signed and verified by an executive officer having knowledge of the facts contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of said securities, or interest thereon, or as to any assumption of obligation in respect thereof.

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## FINANCE DOCKET No. 1255.

## IN THE MATTER OF THE APPLICATION OF THE ROCK ISLAND, ARKANSAS &amp; LOUISIANA RAILROAD COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted May 26, 1921. Decided June 28, 1921.*

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Authority granted to issue at par \$227,000 of first-mortgage 4½ per cent gold bonds to the Chicago, Rock Island & Pacific Railway Company, for moneys advanced by the latter in respect of certain additions and betterments to line of applicant.

*M. L. Bell* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Rock Island, Arkansas & Louisiana Railroad Company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of that act to issue \$227,000 of first-mortgage 4½ per cent gold bonds, and to deliver them to the Chicago, Rock Island & Pacific Railway Company in reimbursement of advances for additions and betterments. No objection to the granting of the application has been made.

The Chicago, Rock Island & Pacific Railway Company owns all the capital stock of the applicant, except qualifying shares of directors, and operates its properties under a 999-year lease executed January 31, 1906, and a supplemental indenture dated March 1, 1910.

The applicant has no income or funds of its own. Expenditures for additions and betterments are made from advances obtained from the lessee. From June 1, 1913, to September 30, 1919, \$227,716.18 was expended for permanent improvements or additions to the road, as shown in the application. Authority is sought to issue \$227,000 of first-mortgage bonds in respect of such expenditures and to deliver them to the Chicago, Rock Island & Pacific Railway Company in payment and satisfaction of the applicant's indebtedness to that company equal to not less than the amount of the bonds so delivered. There will be no cost to the applicant in negotiating the issue and delivery.

The bonds are to be issued under and pursuant to, and secured by, a first mortgage by the applicant to the Bankers Trust Company, trustee, dated March 1, 1910, a copy of which is filed with the application, which mortgage authorizes a total issue of \$30,000,000, of which \$12,965,000 have been issued, and are now outstanding. The bonds are to mature March 1, 1934, to bear interest at the rate of 4½ per cent per annum, payable semiannually on the 1st day of March and of September in each year, and to be guaranteed both as to principal and interest by the indorsement of the Chicago, Rock Island & Pacific Railway Company. Application for authority to thus indorse has been made under Finance Docket No. 1271.

We find that the issue by the applicant and the delivery to the Chicago, Rock Island & Pacific Railway Company of \$227,000 of first-mortgage 4½ per cent gold bonds (*a*) are for lawful objects within its corporate purposes and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Rock Island, Arkansas & Louisiana Railroad Company be, and it is hereby, authorized to issue, in respect of expenditures made for additions and betterments as set forth in the application, \$227,000, principal amount, of first-mortgage 4½ per cent gold bonds, to mature March 1, 1934, and to bear interest at the rate of 4½ per cent, payable semiannually on the 1st day of March and of September in each year; the bonds to be issued under and pursuant to, and secured by, a first mortgage dated March 1, 1910, made by the applicant to the Bankers Trust Company, trustee; the bonds to be delivered to the Chicago, Rock Island & Pacific Railway Company in full payment, satisfaction, and discharge of indebtedness for advances equal to the principal amount of the bonds.

*It is further ordered*, That, except as herein authorized, these bonds shall not be sold, pledged, repledged, used, or disposed of in any manner whatever, by the applicant, unless and until further ordered by this commission.

*It is further ordered,* That applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the issue and delivery of said bonds, such report to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to the said bonds, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 1383.

IN THE MATTER OF THE APPLICATION FOR APPROVAL  
OF THE ACQUISITION OF CONTROL OF THE CHICAGO,  
TERRE HAUTE & SOUTHEASTERN RAILWAY COM-  
PANY BY THE CHICAGO, MILWAUKEE & ST. PAUL  
RAILWAY COMPANY AND FOR CONSEQUENT PUR-  
POSES.

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*Submitted June 22, 1921. Decided June 28, 1921.*

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1. Acquisition by the Chicago, Milwaukee & St. Paul Railway Company of control of the Chicago, Terre Haute & Southeastern Railway Company by lease and by purchase of capital stock approved and authorized.
2. Authority granted to the Chicago, Milwaukee & St. Paul Railway Company to assume, as lessee, obligation and liability in respect of the payment of the principal and interest of (a) \$200,000 of equipment bonds, \$837,000 of promissory notes, \$4,244,000 of first and refunding mortgage bonds, and \$6,336,000 of income-mortgage bonds of the Chicago, Terre Haute & Southeastern Railway Company; (b) \$250,000 of first-mortgage bonds of the Bedford Belt Railway Company; and (c) \$7,287,000 of first-mortgage bonds of the Southern Indiana Railway Company.
3. Dismissal ordered of part of application requesting certificate of public convenience and necessity for the abandonment by the Chicago, Terre Haute & Southeastern Railway Company of the operation of its line of railroad.
4. Consideration of other matters deferred.

*Burton Hanson* for Chicago, Milwaukee & St. Paul Railway Company.

*W. F. Peter* for Chicago, Terre Haute & Southeastern Railway Company.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago, Milwaukee & St. Paul Railway Company, hereinafter called the St. Paul, and the Chicago, Terre Haute & Southeastern Railway Company, hereinafter called the Southeastern, common carriers by railroad engaged in interstate commerce, on April 1, 1921, filed a joint application for—

(a) An order approving acquisition by the former of control of the latter by lease and by the purchase of its capital stock;

(b) An order authorizing the Southeastern to issue and deliver to the St. Paul \$2,090,000 amount of its first and refunding mortgage bonds;

(c) An order authorizing the St. Paul to assume obligation and liability in respect of the principal and interest of various bonds and promissory notes of the Southeastern, and certain of its subsidiary companies, aggregating \$19,154,000; and



(d) A finding that the present and future public convenience and necessity permit the abandonment by the Southeastern of the operation of its line of railroad.

An objection to our jurisdiction was filed by the Public Utilities Commission of Michigan, in which State, among others, the St. Paul operates. We are of the opinion that we have jurisdiction. An objection was also raised on the part of certain stockholders of the St. Paul.

The Southeastern owns and operates a line of railroad extending from Chicago Heights, Ill., which is within the switching district of Chicago, through the eastern edge of Illinois in a southerly direction to Terre Haute, Ind.; thence in a southeasterly and easterly direction to Westport, Ind., a total distance of 298.09 miles. It also operates 12.77 miles of other main line under trackage rights and 39.18 miles of branch lines. The main line between Chicago and Terre Haute is paralleled by the Chicago & Eastern Illinois Railroad and the Southeastern touches no important town and performs no local service between those points. Its chief function is carrying coal from mines located on its rails, principally in Indiana. It has been handicapped by lack of equipment and of advantageous arrangements for the disposition of its traffic, but has always earned operating expenses and interest on its funded debt. Such funded debt amounts to \$19,154,000, and there is also approximately \$1,000,000 of floating indebtedness, offset, however, by current assets in excess of that amount.

By the terms of a tentative agreement duly approved by the stockholders of both applicants, it is provided that the St. Paul may purchase the 40,000 shares of outstanding capital stock of the Southeastern at the price of \$10 per share; that the property of the Southeastern (both owned and leased) shall be leased to the St. Paul for the term of 999 years from July 1, 1921, the rental reserved in the lease being the assumption by the St. Paul of the principal and interest on the following outstanding securities:

Security.	Date of maturity.	Interest rate.	Principal amount.
		<i>Per cent.</i>	
The Bedford Belt Railway Company first-mortgage gold bonds.	July 1, 1928.....	5	\$250,000
The Southern Indiana Railway Company first-mortgage gold bonds.	Feb. 1, 1951.....	4	7,287,000
Chicago, Terre Haute & Southeastern Railway Company first and refunding mortgage bonds.	Dec. 1, 1960.....	5	4,244,000
Chicago, Terre Haute & Southeastern Railway Company equipment gold bonds.	{ Oct. 1, 1921 (\$40,000).. Apr. 1, 1922 (\$40,000).. Oct. 1, 1922 (\$45,000).. Apr. 1, 1923 (\$45,000).. July 1, 1921 (\$10,000).. July 1, 1922 (\$10,000).. July 1, 1923 (\$10,000).. Dec. 1, 1960.....	{ 5 5 5	{ 170,000 30,000 6,336,000
Chicago, Terre Haute & Southeastern Railway Company income-mortgage 50-year gold bonds.			
Chicago, Terre Haute & Southeastern Railway Company promissory notes.	Serially Oct. 1, 1921, to Oct. 1, 1925, inclusive, one-fifth of aggregate amount each year.	7	837,000
<b>Total.....</b>			<b>19,154,000</b>

The St. Paul is also to pay a sum not exceeding \$12,000 per year to cover the expenses of maintaining the Southeastern's corporate organization. Thus the annual interest payment to be made by the St. Paul will aggregate approximately \$900,000, which, it is pointed out, is less than the sum fixed as compensation for the use of the property during Federal control. To this amount will be added approximately \$235,000 annually for taxes.

The issue of the Southeastern's promissory notes for \$837,000 and the pledge of \$1,485,000 of its first and refunding mortgage bonds as collateral security therefor have been authorized by our order in *Notes of Chicago, Terre Haute & Southeastern Ry.*, 67 I. C. C., 710. There are also now held in the Southeastern's treasury \$605,000 of these bonds.

The Southeastern proposes to issue to the St. Paul these \$2,090,000 of bonds or such amount thereof as shall be necessary to reimburse the latter (a) for its payment of the \$837,000 of promissory notes, (b) for its payment of the \$200,000 of above-mentioned equipment bonds, at such price or prices as may be fixed by both of the applicants or, failing an agreement, at such price as may be fixed by an appointed arbiter, and (c) with any remainder thereof, to be issued at par and accrued interest, to reimburse the St. Paul for money expended by it from its treasury in respect of the leased property for (1) the construction or acquisition of lines of railway or other property, (2) the acquisition of securities of other companies, and (3) for additions and betterments. According to the terms of the lease, which is submitted for approval as a part of the application, the Southeastern also proposed to issue at par and accrued interest such further amount of its first and refunding mortgage bonds to the St. Paul as may be necessary to reimburse the latter for any additional money expended by it from its treasury for any of the purposes specified in subdivision (c) above. The Southeastern also proposes to issue to the St. Paul bonds under any mortgage or mortgages which it may execute at any time in the future to refund or to be substituted for the Southeastern's first and refunding mortgage bonds and income-mortgage bonds. The St. Paul proposes to guarantee the principal and interest of all of the above bonds, issued and to be issued.

As the price at which bonds are to be issued under subdivisions (a) and (b) above, can not now be determined, and as the applicant has shown no present necessity for the issue of any bonds for the purposes specified in subdivision (c) above, and because of the uncertainty of the amount thereof, and because no amounts, terms, or conditions of bonds to be issued under any prospective future

mortgage are stated at this time, consideration of that part of the application will be deferred.

With respect to the \$6,336,000 of income-mortgage bonds of the Southeastern, set forth in the above schedule, the St. Paul proposes to place upon each of these bonds an indorsement of guaranty of the principal and of the interest accruing subsequent to the date of the proposed lease, irrespective of whether such interest is earned.

Both applicants submit that it is necessary, if the lease is authorized, for the St. Paul to assume the aforesaid obligations in order to protect its leasehold interest from loss through possible foreclosure proceedings.

The mileage of the St. Paul constitutes one of the largest singly owned railroads in the United States, and on no part of it are there coal mines of sufficient importance to furnish the carrier with fuel for its own use. Almost all of its system coal must be purchased from mines located on other roads and moved to its rails under the regular tariff rates. On the basis of the amount used by the St. Paul in 1920, it estimates that freight charges on its fuel amount to \$3,479,837 annually. Thus the St. Paul will derive its chief advantage from the proposed transaction in its ability to move its system coal from the Indiana mines on non-revenue billing, making a saving, it is claimed, in excess of the amount to be paid as rentals and taxes. The St. Paul has also made a study of the commercial possibilities inherent in the prospective arrangement and asserts that coal from the mines in question will find a ready market at points on its lines in Wisconsin, Minnesota, Iowa, and South Dakota, competing on favorable terms with coal from the Illinois fields and thus bringing about a substantial increase in the revenue tonnage handled on the Southeastern's rails. It is also pointed out that this arrangement will give the St. Paul the only route through the Chicago gateway for the movement of traffic from the Northwest to eastern and southeastern points not involving an interchange movement in the Chicago switching district. The St. Paul owns a one-fourth interest in the Indiana Harbor Belt Railroad, which connects with its line. It has trackage rights from such point of connection to Blue Island, where the Belt Line connects with the Southeastern. With the consummation of the proposed arrangement it will therefore be able to move solid trains between its own classification yards and the Southeastern's rails. Because of this factor the St. Paul anticipates a considerable movement of through traffic to and from the connections of the Southeastern in southern Indiana.

The proposed lease contains an option permitting the St. Paul to purchase the physical property of the Southeastern at some future time. At the hearing, however, both applicants stated on the record that, since the St. Paul would not in all probability exercise its option in the near future, they desired consideration of that matter deferred. It appears that this request is a proper one, and no findings will be made, therefore, with respect to the proposed purchase of the property. The St. Paul desires at this time, however, to acquire the capital stock of the Southeastern in order to control the organization for purposes of financing and better to protect its leasehold interest.

Inasmuch as the physical property of the Southeastern is to be operated by the St. Paul, we are of the opinion that there will be no abandonment of operation of such property within the meaning of the term as used in paragraph (18), section 1, and that, therefore, no certificate of public convenience and necessity is required.

On the facts presented we find that the acquisition by the St. Paul of control of the Southeastern, by means of the lease in question and by the purchase of capital stock, will be in the public interest.

We further find that the proposed assumption by the Chicago, Milwaukee & St. Paul Railway Company of obligation and liability, as lessee, in respect of certain securities aggregating \$19,154,000 as set forth above (a) is for lawful objects within its corporate purposes and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the acquisition by the Chicago, Milwaukee & St. Paul Railway Company of control of the Chicago, Terre Haute & Southeastern Railway Company by the purchase of capital stock and by lease, in the manner and to the extent specified in said report be, and the same is hereby, approved and authorized.

*It is further ordered,* That the Chicago, Milwaukee & St. Paul Railway Company be, and it is hereby, authorized to assume, as

lessee, obligations and liability in respect of the payment of the principal and interest of (a) not exceeding \$200,000, principal amount, of equipment bonds issued under and pursuant to, and secured by, the conditional-sale agreements dated April 1, 1913, and June 1, 1913, and supplemental agreement dated May 29, 1916, made by said Chicago, Terre Haute & Southeastern Railway Company to the First Trust & Savings Bank of Chicago, bearing interest at the rate of 5 per cent per annum, payable semiannually, and maturing serially in various amounts as more fully set forth in said report; not exceeding \$837,000, aggregate face amount, of promissory notes heretofore issued by said Chicago, Terre Haute & Southeastern Railway Company, bearing interest at the rate of 7 per cent per annum, payable semiannually on April 1 and October 1 in each year, and maturing serially in amounts equal to one-fifth of said aggregate face amount on the 1st day of October in each year from 1921 to 1925, inclusive; not exceeding \$4,244,000, principal amount, of first and refunding mortgage bonds issued under and pursuant to, and secured by, the first and refunding mortgage dated December 1, 1910, made by said Chicago, Terre Haute & Southeastern Railway Company to the Illinois Trust & Savings Bank and William H. Henkle, bearing interest at the rate of 5 per cent per annum, payable semiannually on December 1 and June 1 in each year, and maturing December 1, 1960; and not exceeding \$6,336,000, principal amount, of income-mortgage bonds due December 1, 1960, issued under and pursuant to, and secured by, the income mortgage dated December 1, 1910, made by said Chicago, Terre Haute & Southeastern Railway Company to the First Trust & Savings Bank and Louis Boiscot, bearing interest at the rate of 5 per cent per annum, payable semiannually on September 1 and March 1 in each year, in accordance with the terms of said mortgage, except that the obligation as to payment of such interest to the holders of said bonds shall be absolute and not conditioned upon earnings; (b) not exceeding \$250,000, principal amount, of first-mortgage bonds issued under and pursuant to, and secured by, the first mortgage dated June 1, 1898, made by the Bedford Belt Railway Company to the Equitable Trust Company bearing interest at the rate of 5 per cent per annum, payable semiannually on January 1 and July 1 in each year, and maturing July 1, 1938; and (c) not exceeding \$7,287,000 of first-mortgage bonds issued under and pursuant to, and secured by, the deed of trust dated February 1, 1901, made by the Southern Indiana Railway Company to the Equitable Trust Company, and further secured by the supplemental mortgage dated November 30, 1910, made by said Chicago, Terre Haute & Southeastern Railway Company to the Girard Trust Company, bearing interest at the rate of 4 per cent per annum, pay-

able semiannually on February 1 and August 1 in each year, and maturing February 1, 1951.

*It is further ordered*, That within 10 days after the execution and delivery of said lease, there shall be filed with this commission a copy thereof, verified by each applicant, in the form in which executed.

*It is further ordered*, That within 10 days after the same shall have been consummated, the applicants shall report to this commission all pertinent facts relating to the assumption of obligation and liability in respect of securities as herein authorized; such reports to be signed and verified by executive officers having knowledge of the facts.

*It is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of said bonds or notes, or interest thereon, or as to any guaranty of any of said bonds or notes, or interest thereon.

*It is further ordered*, That so far as it requests a certificate of public convenience and necessity covering the abandonment by the Chicago, Terre Haute & Southeastern Railway Company of the operation of its lines of railroad, the application herein be, and it is hereby, dismissed.

*And it is further ordered*, That said Chicago, Milwaukee & St. Paul Railway Company and said Chicago, Terre Haute & Southeastern Railway Company, when filing schedules establishing or canceling rates to and from points on said Chicago, Terre Haute & Southeastern Railway, shall in such schedules make specific reference to this order by title, date, and docket number.

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## FINANCE DOCKET No. 976.

IN THE MATTER OF THE APPLICATION OF THE KANSAS CITY TERMINAL RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS.

*Submitted June 24, 1921. Decided June 29, 1921.*

Application granted and loan of \$580,000 approved.

*W. M. Corbett* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Kansas City Terminal Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on August 9, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness. On May 20 and June 24, 1921, the applicant amended the application.

In the application, as amended, the applicant sets forth:

1. That the amount of the loan desired is \$580,000.
2. That the term for which the loan is desired is 10 years from June 28, 1921.
3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Principal amount.	Financed by applicant.	Loan from United States.
Maturing indebtedness:			
5-year 4½ per cent secured gold notes, due July 1, 1921 .....	\$2, 500, 000	\$1, 920, 000	\$580, 000
6-month 6 per cent secured note to the First National Bank of Kansas City, due June 10, 1920 .....	200, 000	200, 000	.....
Total .....	2, 700, 000	2, 120, 000	580, 000

4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is (1) the notes of the Jasper Land & Improvement Company in a principal amount equal to the amount  
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of the loan and secured by a first lien upon certain properties of the land company; and (2) the entire capital stock of the land company.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to preserve its credit and thus more expeditiously to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation, we find that the making of the proposed loan by the United States, for the purposes and in the amounts hereinabove set forth is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 104 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$580,000 by the United States to the Kansas City Terminal Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in meeting its maturing indebtedness is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$580,000.

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4. That the time from the making thereof within which the loan is to be repaid in full is 10 years from June 28, 1921.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of 10-year 6 per cent notes of the Jasper Land & Improvement Company, a corporation duly organized and existing under and by virtue of the laws of the State of Missouri and hereinafter referred to as the land company, issued under and secured by a deed of trust dated June 27, 1921, executed and delivered by the land company to the First National Bank of Kansas City, Mo., as trustee. Said notes are in definitive coupon form, having coupon due June 27, 1922, and all subsequent coupons attached, are in denomination of \$10,000, of an aggregate principal amount equal to the amount of the loan, and are numbered 1 to 58, inclusive.

(b) The loan shall be further secured by the entire capital stock of the land company, of a par value of \$10,000 evidenced by four certificates for 100 shares of a par value of \$100 each. Said certificates are indorsed in blank and are issued as follows:

No. 5, in the name of O. W. Pratt.....	1 share
No. 13, in the name of Kansas City Terminal Railway Company....	97 shares
No. 14, in the name of W. M. Corbett.....	1 share
No. 15, in the name of Samuel W. Sawyer.....	1 share

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any part of the loan before maturity. The collateral security shall, so far as practicable, be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, to-

gether with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(f) The applicant has agreed in an instrument in writing, dated the 28th day of June, 1921, filed with the Interstate Commerce Commission, to the following condition: The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 8 per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 28th day of June, 1921.

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## FINANCE DOCKET No. 1288.

## IN THE MATTER OF THE APPLICATION OF THE MINNEAPOLIS, ST. PAUL &amp; SAULT STE. MARIE RAILWAY COMPANY FOR AUTHORITY TO PURCHASE THE PROPERTY OF THE WISCONSIN &amp; NORTHERN RAILROAD COMPANY AND TO ISSUE BONDS IN PART PAYMENT.

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*Submitted June 8, 1921. Decided June 29, 1921.*

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1. Proposed acquisition by the Minneapolis, St. Paul & Sault Ste. Marie Railway Company of the property used for railroad purposes by the Wisconsin & Northern Railroad Company approved.
2. Authority granted the applicant to issue \$2,671,000 of applicant's first consolidated 5 per cent mortgage bonds to be used in part payment for the property.

*John L. Erdahl* for applicant.

*M. J. Wallrich, J. C. Thompson, and William Burry* for Wisconsin & Northern Railroad Company.

*Carl D. Jackson*, chairman, and *A. H. Long* for the Railroad Commission of Wisconsin and the Minnesota Railroad and Warehouse Commission.

*William J. Morgan*, attorney general, and *Ralph M. Hoyt*, deputy attorney general, for the State of Wisconsin.

*George B. Skogmo* for himself and other citizens of Wisconsin.

*Rix & Barney* for certain bondholders of the Wisconsin & Northern Railroad Company.

*Nye F. Morehouse* for Chicago & North Western Railway Company.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, HALL, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4: .

The Minneapolis, St. Paul & Sault Ste. Marie Railway Company, a carrier by railroad subject to the interstate commerce act, on March 18, 1921, filed its application for authority (a) to purchase all the property used for railroad purposes by the Wisconsin & Northern Railway Company, hereinafter termed the Northern, and (b) to issue bonds in the amount of \$2,671,000 in part payment for such property.

Due notice of the filing of the application was given, and a hearing was held thereon. Objections to our jurisdiction were filed by  
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the Public Utilities Commission of Michigan, in which State, among others, the applicant operates. We are of opinion that we have jurisdiction. No objections were filed by the authorities of any other State in which the applicant is authorized to transact business as a common carrier.

The Northern operates a line of railroad extending from Neenah, Wis., in a general northerly direction through the counties of Outagamie, Shawano, and Langlade, to Wisconsin & Northern Junction in Forest County, Wis., a distance of 133.58 miles, including branches. The line was constructed at different periods, beginning in 1905, and was built primarily to serve the Menasha Woodenware Company and other interests engaged in logging operations in the territory traversed. Forest products have always formed a large part of the tonnage handled. At Neenah the line connects with the main line of the applicant's Chicago division, and at Wisconsin & Northern Junction with the applicant's Wisconsin-Michigan division. It intersects the Green Bay & Western Railroad at Black Creek and the Chicago & North Western Railway at Shawano. Traffic originating on the line is obliged to seek a market over connecting lines and moves under the Wisconsin distance tariff, chiefly to points in Wisconsin, thus being subject to the sum of two local rates. A number of communities have grown up along the line and various activities, including farming, dairying, and manufacturing, have developed to a considerable extent. In the territory served there is still a large amount of uncut timber, estimated at 3,000,000,000 feet, and the cut over land is described as susceptible of development into unusually good farms. The record demonstrates that the line is capable of meeting a definite existing transportation need in that locality. The operations of the Northern have never been profitable, chiefly because of inability to provide sufficient equipment. Its general balance sheet of December 31, 1920, shows a credit balance to profit and loss of \$301,761.91. Its income for 1920 shows an operating deficit of \$575,545.22. It has outstanding shares of capital stock in the principal amount of \$1,497,000 and unmatured funded debt of \$1,555,000; in addition to which it had current liabilities on December 31, 1920, of \$699,591.24.

The applicant in acquiring the property expects to develop the local traffic to a considerable extent and to provide better local service, both freight and passenger, as well as to offer some reductions in local rates by elimination of the existing two-line haul. Such acquisition would also give the applicant a connecting link between its Wisconsin Michigan and its Chicago divisions, over which it can transport tonnage originating in the Northern Peninsula of Michigan

destined to Milwaukee and Chicago, shortening the applicant's present route for such movements by approximately 113 miles. Applicant looks upon this connecting-link function of the line as its principal justification for acquiring the property.

The consideration to be paid therefor is \$25,000 per mile, or a total of \$3,339,500. Of this amount, \$5,000 per mile, or \$668,500, is to be paid in cash, and the balance, \$20,000 per mile, or \$2,671,000, in first consolidated 5 per cent mortgage bonds of the applicant. These bonds are to be accepted by the Northern at par, and the property is to be transferred to the applicant free and clear of indebtedness and incumbrances of every kind.

The proposed bonds are to be issued under the first consolidated 5 per cent mortgage executed by the applicant to the Central Trust Company of New York under date of June 18, 1888, which authorized the issue of \$21,000,000 of bonds, and \$20,000 of bonds additional per mile of completed railway at any time owned by the applicant in excess of 800 miles. Bonds aggregating \$47,476,000 have been heretofore issued on the basis of 2373.8 miles in excess of the original 800 miles of line. Of the \$21,000,000, \$12,864,000 has been issued, and there are now outstanding \$60,340,000 of bonds under this mortgage. The remaining \$8,136,000 of the original \$21,000,000 is reserved to retire underlying bonds which mature on January 1, 1926. The bonds sought to be issued will come under the authorization of \$20,000 per mile.

The original mortgage provided that all bonds issued thereunder were to bear interest at the rate of 5 per cent per annum, payable semiannually on January 1 and July 1 in each year, and to mature on the 1st day of July, 1938. By subsequent agreements between the applicant and the Canadian Pacific Railway Company, and between the applicant and the holders of outstanding first consolidated 5 per cent mortgage bonds, the interest rate was to be reduced from 5 to 4 per cent upon all bonds bearing the guaranty of interest by the Canadian Pacific Railway Company, but the bonds issued without such guaranty were to continue to bear 5 per cent interest. Of the bonds issued under this mortgage, \$56,863,000 are 4s and \$3,477,000 are 5s. The bonds for which authority is now sought are to be issued without such guaranty and will therefore bear interest at the rate of 5 per cent.

The general balance sheet of the Northern for December, 1920, shows an investment in road and equipment of \$3,353,523.81. Against this property there were at that time outstanding shares of stock aggregating \$1,497,000 and bonds aggregating \$1,550,600. Upon the transfer of the property the bonds of the Northern are to be retired, so that the total capitalization of this property will then amount to

\$2,671,000, the amount of bonds issued in part payment therefor. There will be no expenses in connection with their disposition other than the cost of printing or engraving.

The present cost of reproduction new is estimated by applicant at \$5,164,459. This estimate was made by taking quantities shown in the inventory of our bureau of valuation and applying thereto unit prices as of March, 1920. Depreciation of road and equipment was placed by applicant at \$507,120, leaving a cost of reproduction, less depreciation, of \$4,657,339. Our valuation of this property under section 19a of the interstate commerce act has not been completed, and we are not at this time prepared to find whether or not the present cost of reproduction less depreciation is that claimed in this proceeding. But for the purposes of this application it will suffice to find, as we do, that the record as to value justifies the proposed acquisition at the stated price.

The Chicago & North Western Railway Company filed at the hearing a petition for leave to intervene for the purpose of showing an outstanding and unexecuted contract between it and the Northern with respect to an overhead crossing and an interlocking plant. The Northern takes the position that its rights under this contract will pass with the conveyance of the property and states on the record that the proceeds of sale will remain available for liquidation of any claims which may hereafter be established against it. We express no opinion as to such rights or the validity of other claims against the Northern which are brought to our attention on the record. Those matters are cognizable by the courts and it is not in our province to attach to our authorization any conditions with respect thereto, since it does not appear that such conditions are necessary to protect the public interest.

Treating the application as one filed under paragraph (2) of section 5 and under section 20a of the act we find upon this record (1) that the acquisition by the Minneapolis, St. Paul & Sault Ste. Marie Railway Company of the property used for railroad purposes by the Wisconsin & Northern Railroad Company will be in the public interest, and (2) that the proposed issue of bonds by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

COMMISSIONER EASTMAN dissents.



## ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the Minneapolis, St. Paul & Sault Ste. Marie Railway Company be, and it is hereby, authorized to acquire by purchase for the amount and on the terms specified in said report the property used for railroad purposes by the Wisconsin & Northern Railroad Company.

*It is further ordered*, That the Minneapolis, St. Paul & Sault Ste. Marie Railway Company, when filing schedules establishing rates and fares to and from points on said line of railroad, shall in such schedules make specific reference to this order by title, date, and docket number.

*It is further ordered*, That the Minneapolis, St. Paul & Sault Ste. Marie Railway Company be, and it is hereby, authorized (1) to issue \$2,671,000, principal amount, of its first consolidated 5 per cent mortgage bonds under and pursuant to and secured by the first consolidated 5 per cent mortgage, dated June 18, 1888, made by the applicant to the Central Trust Company of New York, said bonds to bear interest at the rate of 5 per cent per annum, payable semi-annually on January 1 and July 1 in each year, to mature July 1, 1938, and to be in the form set forth in said first consolidated 5 per cent mortgage; and (2) to deliver said bonds to the Wisconsin & Northern Railroad Company at par in part payment of the purchase price of the railroad property to be purchased from that company.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to the commission, within 10 days thereafter, all pertinent facts relating to the issue and delivery of bonds as herein authorized, such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1412.

## IN THE MATTER OF THE APPLICATION OF THE ANN ARBOR RAILROAD COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted May 28, 1921. Decided June 29, 1921.*

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Authority granted to issue \$2,000,000 of 6 per cent bonds under applicant's improvement and extension mortgage as amended; \$1,925,000 of said bonds for pledge as collateral security for certain promissory notes, as substitute for 5 per cent bonds now in pledge, and \$75,000 in exchange for 5 per cent bonds now held in applicant's treasury.

*Curtis, Mallet-Provost & Colt* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4. COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4.

The Ann Arbor Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$2,000,000 of 6 per cent bonds under a supplemental mortgage amending its improvement and extension mortgage; \$1,925,000 of these bonds to be pledged in substitution for a like amount of 5 per cent bonds issued under its original improvement and extension mortgage, and \$75,000 in exchange for a like amount of the 5 per cent bonds now held in its treasury.

While no request for a hearing has been made by any State authority, an answer containing representations on behalf of Michigan has been filed by the Public Utilities Commission of that State, in which dismissal of the application is asked on the ground that we are without jurisdiction. We are of the opinion that we have jurisdiction.

The original improvement and extension mortgage, made by the applicant to the Empire Trust Company under date of May 1, 1911, provides for the issue of a total principal amount of not exceeding \$10,000,000 of 30-year 5 per cent bonds. The supplemental mortgage, amending the improvement and extension mortgage, is dated November 1, 1920, and, in addition to other changes to become effective on conditions therein stated, provides (1) for increasing from 5 per cent to 6 per cent the interest rate on bonds issued and to be

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issued thereunder; (2) for reducing the amount of bonds theretofore certified and delivered from \$2,500,000 to \$2,000,000, by the applicant's surrendering \$500,000 of these bonds to the trustee under the amended mortgage; and (3) for waiver by the applicant of all right, under the amended mortgage, to certification and delivery of additional bonds to which it would be entitled on account of expenditures made for additions and betterments prior to September 1, 1920.

The \$500,000 of bonds mentioned have already been surrendered to the trustee, and there now remain 5 per cent bonds which are to be exchanged for 6 per cent bonds, as follows:

Pledged with the Secretary of the Treasury for loans made pursuant to our certificates Nos. 60 and 61.....	\$1, 300, 000
Pledged with the Director General of Railroads as security for indebtedness.....	525, 000
Pledged with the War Finance Corporation as security for a demand note.....	100, 000
Held in applicant's treasury .....	75, 000
Total .....	2, 000, 000

The applicant represents that the increase of the rate of interest on the bonds from 5 per cent to 6 per cent is necessary by reason of present financial conditions, the prevalent advance in the interest rate of similar securities, and in order to enable the bonds to rank with competing issues.

We find that the proposed issue of 6 per cent bonds for the purposes stated (a) is for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Ann Arbor Railroad Company be, and it is hereby, authorized to issue \$2,000,000, principal amount, of its 30-year 6 per cent improvement and extension mortgage bonds under and pursuant to, and to be secured by, its improvement and extension mortgage dated May 1, 1911, made to the Empire Trust Company, trustee, as amended by its supplemental mortgage dated November 1, 1920, made to the same trustee; \$1,925,000 of said bonds to be

pledged as collateral security for certain promissory notes, in substitution for a like amount of 5 per cent bonds now pledged as collateral security for said notes, as set forth in the said report; such pledge to be made only upon the release and cancellation of said 5 per cent bonds now held as collateral security for said notes; and to exchange the remaining \$75,000 of 6 per cent bonds for a like amount of 5 per cent bonds now held in the applicant's treasury, such exchange to be made only upon the cancellation of said 5 per cent bonds held in applicant's treasury.

*It is further ordered,* That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the pledge, exchange, and release from pledge, respectively, of its 6 per cent bonds authorized herein, and also shall similarly report the cancellation of its 5 per cent bonds.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 1474.

IN THE MATTER OF THE APPLICATION OF THE SAN  
DIEGO & ARIZONA RAILWAY COMPANY FOR AUTHOR-  
ITY TO ISSUE NOTES.

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*Submitted June 14, 1921. Decided June 29, 1921.*

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Authority granted to issue, within 60 days of date of order, two promissory notes, each in a face amount equal to the sum of \$688,817.67 and interest thereon at the rate of 6 per cent per annum from March 1, 1921, to date of issue, one payable to the Southern Pacific Company and the other to the J. D. & A. B. Spreckels Securities Company, one day after date, with interest at the rate of 6 per cent per annum, to cover certain indebtedness of the applicant for advances made by those companies.

*Read G. Dilworth* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
By DIVISION 4:

The San Diego & Arizona Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue and deliver at par two one-day promissory notes aggregating an amount equal to \$1,377,635.34, plus interest thereon at the rate of 6 per cent per annum from March 1, 1921, to the date of issue. No objection has been made to the granting of the application.

In conjunction with the Compañía del Ferrocarril de Tiajuana y Tecate, S. A., the applicant owns a line of approximately 193 miles of railroad situated in the State of California and the Republic of Mexico. All of the capital stock of the former company is held by the applicant, which is the operating company. The applicant's capital stock, except six shares qualifying directors, is owned in equal parts by the Southern Pacific Company and the J. D. & A. B. Spreckels Securities Company.

In the course of operations between June 30, 1920, and February 25, 1921, it became necessary for the proprietary companies to advance cash to the applicant amounting to \$1,377,635.33, for the following purposes:

Investment in road and equipment.....	\$167, 248. 69
Operating expenses .....	457, 015. 35
Material and supplies.....	109, 066. 00
Interest on funded debt.....	585, 583. 34
Rent for equipment.....	12, 414. 96
Taxes.....	38, 301. 00
Rent (unclassified).....	8, 000. 00
Total .....	1, 377, 624. 34

The proposed notes are to cover the applicant's indebtedness for these advances. Interest on the amount due each proprietary company at the rate of 6 per cent per annum will be included in the face amount of each note, and the notes will bear simple interest at the same rate from the date of issue. They and the applicant's other outstanding notes of a maturity of two years or less will together aggregate more than 5 per cent of the par value of its outstanding securities.

We find that the proposed issue of notes by the applicant is (a) for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

*It is ordered*, That for the purposes stated in said report the San Diego & Arizona Railway Company be, and it is hereby authorized to issue within 60 days after the date of this order, two promissory notes each in a face amount equal to the sum of \$688,817.67 and interest thereon at the rate of 6 per cent per annum from March 1, 1921, to the date of issue, one of which shall be payable to the Southern Pacific Company and the other to the J. D. & A. B. Spreckels Securities Company, one day after date, with interest at the rate of 6 per cent per annum; said notes to be in the form submitted with the application.

*It is further ordered*, That said notes shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, except in the manner and for the purposes herein authorized.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter, respectively, all pertinent facts relating (1) to the issue of said notes, and (2) to their payment or satisfaction, said reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1103.

## IN THE MATTER OF THE APPLICATION OF THE WHEELING &amp; LAKE ERIE RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING MORTGAGE BONDS AND TO PLEDGE SUCH BONDS.

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*Submitted May 16, 1921. Decided June 30, 1921.*

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Authority granted to issue \$779,000 of its refunding-mortgage 5 per cent bonds, series B, for the purpose of pledging them with the Secretary of the Treasury. Previous report 67 I. C. C., 348.

*Squire, Sanders & Dempsey and Andrew P. Martin* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Wheeling & Lake Erie Railway Company, a common carrier by railroad engaged in interstate commerce, by its original application duly filed in this proceeding, sought authority under section 20a of the interstate commerce act to issue \$1,528,000 of its refunding-mortgage 5 per cent bonds, series B, including an item of \$177,000 of such bonds intended for pledging with the Bankers Trust Company, trustee, as partial security for the performance of its proposed obligations under the National Railway Service Corporation's equipment trust, series A, lease basis. In our report thereon dated March 29, 1921, consideration of this item was deferred for disposal in connection with the applicant's concurrent request, *Notes, etc., of Wheeling & Lake Erie Ry., infra*, p. 44, for authority to participate in the equipment trust, and to assume certain obligations thereunder. By supplemental application filed on May 16, 1921, the applicant now asks authority to issue \$602,000 of refunding-mortgage 5 per cent bonds, series B, in addition to the amount above mentioned, and to pledge all the bonds thus made available, aggregating \$779,000, with the Secretary of the Treasury as security for obligations arising under the equipment trust. No objection has been offered to the granting of the supplemental application.

The applicant sets forth in its supplemental application that, of the bonds reserved by its refunding mortgage for such purposes, it is

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entitled to issue refunding-mortgage gold bonds in respect of the following expenditures:

\$48,067.74 expended during the period from September 1, 1920, to March 31, 1921, inclusive, for additions and betterments to its lines-----	\$48, 000
\$42,814.92 expended during the same period, for additions and betterments to rolling stock and floating equipment-----	38, 000
Payment of receiver's equipment certificates, series A, issued March 1, 1913, and due March 1, 1921-----	101, 000
Expended in payment of applicant's equipment-trust certificates, series B, issued March 31, 1917, due April 1, 1921-----	415, 000

The applicant has also shown expenditures entitling it to issue the \$177,000 of bonds which were not included in the authority granted in our order of March 29, 1921, 67 I. C. C., 348.

As the proposed pledging of these bonds is closely connected with the authority requested by the applicant in Finance Docket No. 1104, following, appropriate authority for such pledging will be embraced in our order therein.

We find that the proposed issue of bonds by the applicant as hereinbefore set forth (a) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Wheeling & Lake Erie Railway Company be, and it is hereby, authorized to issue \$779,000, principal amount, of its refunding-mortgage gold bonds, series B, under and pursuant to, and to be secured by, the refunding mortgage dated September 1, 1916, made by the applicant to the Central Trust Company of New York; said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature on September 1, 1966; said bonds to be authenticated and delivered to the applicant and held by it in its treasury available for disposition in accordance with the order of this commission, dated June 30, 1921, in Finance Docket No. 1104.

*It is further ordered,* That except as hereinbefore authorized to be issued and as in Finance Docket No. 1104 authorized to be pledged, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall report to this commission all pertinent facts relating to the issue of said bonds, within 10 days thereafter; such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 1104.

## IN THE MATTER OF THE APPLICATION OF THE WHEELING &amp; LAKE ERIE RAILWAY COMPANY FOR AUTHORITY TO ISSUE NOTES, TO GUARANTEE OBLIGATIONS, AND TO PLEDGE BONDS.

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*Submitted June 13, 1921. Decided June 30, 1921.*

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## Authority granted:

1. To issue rent notes for not exceeding \$13,629,000 under the terms of a carrier contract to be entered into pursuant to the National Railway Service Corporation's equipment-trust agreement, series A, lease basis.
2. To assume obligation or liability as indorser and guarantor in respect of obligations of the National Railway Service Corporation to the United States in the aggregate amount of \$3,304,000.
3. To pledge with the Secretary of the Treasury not to exceed \$779,000 of refunding-mortgage 5 per cent bonds, series B, and interests and equities in certain other bonds to secure the repayment of said loan of \$3,304,000, and any obligation or obligations evidencing the same, and the performance of said obligation of indorsement and guaranty.
4. To transfer, assign, and set over unto the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, interests and equities in certain securities, subject to prior pledges, liens, interests, and equities therein.

*Squire, Sanders & Dempsey and Andrew P. Martin for applicant.*

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

## BY DIVISION 4:

The Wheeling & Lake Erie Railway Company, a common carrier by railroad engaged in interstate commerce, by an application duly filed in this proceeding on November 22, 1920, has sought authority under section 20a of the interstate commerce act (1) to execute carrier contract No. 3, pursuant to the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, for the lease and acquisition of certain equipment; (2) to assume obligation or liability as indorser and guarantor in respect of a note or notes to be given to the Secretary of the Treasury by the National Railway Service Corporation for a loan of \$3,304,000 under section 210 of the transportation act, 1920, as amended, in connection with the procurement of the equipment, and to pledge certain bonds and equities in bonds in order to secure the repayment of said loan and any obligation or obligations evidencing the same, and the performance of said obli-



gation of indorsement and guaranty; (3) to issue rent notes for not exceeding \$13,629,000, covering the rental of the equipment; and (4) to enter into an agreement with the Bankers Trust Company, making certain pledges of bonds, and granting equities or interests therein to secure the performance of the applicant's obligations under said trust. By an amendment filed June 13, 1921, authority is sought for the pledging of certain bonds with the Secretary of the Treasury as security in part for the loan to the Service Corporation under section 210, and for the granting of second and third liens in respect of certain bonds which are now, or may hereafter be, pledged with the Secretary of the Treasury. No objection has been made to the granting of the authority requested.

As specified in our certificate No. 98, dated June 28, 1921, in *Loan to Wheeling & Lake Erie Ry.*, 67 I. C. C., 588, we have heretofore approved the National Railway Service Corporation as an agency or organization, in the language of the statute, "most appropriate in the public interest" to or through which loans under section 210 of the transportation act, 1920, as amended, may be made for the construction and sale or lease of equipment to carriers. We have also approved the making of a loan under that section, of \$3,304,000 by the United States to the Service Corporation for the purpose of aiding the applicant in providing itself with equipment necessary to enable it properly to meet the transportation needs of the public.

The National Railway Service Corporation's equipment trust, series A, lease basis, will be established by an agreement between the National Railway Service Corporation and the Bankers Trust Company. This agreement will be dated June 1, 1921, and under it trust certificates will be issued by the Service Corporation, which will be known as prior-lien 7 per cent certificates and deferred-lien 6 per cent certificates. The equipment provided thereunder, the agreements executed in accordance therewith, and the rent notes to be issued by the applicant in pursuance thereof will be held in trust, dealt with, and administered by the Bankers Trust Company for the benefit of the holders of said certificates as therein prescribed.

The loan of \$3,304,000 will be available for use by the Service Corporation in aiding the applicant to provide itself with certain equipment through the equipment trust. The rent notes will evidence the obligation of the applicant to pay rent for the equipment. A contract of indorsement and guaranty will be executed by the applicant in respect of the obligations of the Service Corporation to the United States in the aggregate sum of \$3,304,000, in accordance with the requirements of our certificate No. 98.

Authority will be granted in *Bonds of Wheeling & Lake Erie Ry.*, ante, p. 41, for the issue of the \$779,000 of refunding-mortgage  
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5 per cent bonds, series B, which are to be pledged with the Secretary of the Treasury.

To secure its indebtedness to the Director General of Railroads arising out of operations during the period of Federal control, the applicant has pledged with the Secretary of the Treasury \$1,592,000 of its refunding mortgage 5 per cent bonds, series B, and expects to pledge about \$700,000 more, the exact amount being dependent upon the amount of the indebtedness, which has not yet been determined. As further security for the performance of its obligations of indorsement and guaranty and for the repayment of the loan to the Service Corporation, the applicant is to grant a second lien on the bonds now under pledge or to be pledged with the Secretary of the Treasury to secure the indebtedness to the director general, and upon all of the securities which have been pledged, or will be pledged, to secure these previous loans under section 210 directly to the applicant. Bonds now under pledge for the three previous loans are \$3,800,000 of the applicant's refunding-mortgage 5 per cent bonds, series B, and \$4,000,000 of its refunding-mortgage 6 per cent bonds, series C. For the fourth installment of the loan to the applicant for additions and betterments there will be pledged \$660,000 of its refunding-mortgage 6 per cent bonds, series C, when they shall have been authorized, authenticated, and delivered to the applicant. The \$660,000 of 6 per cent bonds are to be included in the second lien to be created in favor of the Secretary of the Treasury in respect of the loan to the Service Corporation for the benefit of the applicant.

As a condition to be included in carrier contract No. 3, or to be made by a separate agreement, the applicant proposes to transfer, or to have assigned over to the Bankers Trust Company, as trustee under the contract between the Railway Service Corporation's equipment-trust agreement with the Bankers Trust Company, dated June 1, 1921, all of its right, title, interest and equity in and to all the following securities, subject, however, to the prior pledges, liens, interests, and equities therein or thereon which have been, or may be, granted to and vested in the United States or in the Secretary of the Treasury: (a) \$779,000 of refunding mortgage 5 per cent bonds, series B, which are to be pledged with the Secretary of the Treasury; (b) \$3,800,000 of refunding mortgage 5 per cent bonds, series B, on which a second lien is to be created in favor of the Secretary of the Treasury; (c) \$4,000,000 of refunding mortgage 6 per cent bonds, series C, on which a second lien is to be created in favor of the Secretary of the Treasury; also the \$660,000 of series C bonds which the applicant proposes to have authenticated and delivered to itself; and (d) \$1,000,000 of its refunding mortgage 5 per cent bonds, series B, pledged with the Secretary of the Treasury to secure a note or notes

evidencing the indebtedness of the applicant to the Director General of Railroads in connection with financial transactions arising out of the operation of its railroad during Federal control, and any additional securities which may be pledged for such purpose.

The applicant proposes in the near future to have \$660,000 of its refunding-mortgage 6 per cent bonds, series C, authenticated and delivered to it by the trustee under the mortgage securing them. These bonds are to be pledged to the Secretary of the Treasury as security for the fourth installment of the loan direct to the applicant for additions and betterments, upon which a second lien will be created in favor of the Secretary of the Treasury as security in part for the equipment loan through the Service Corporation. In addition, these bonds will be made subject to a third lien in favor of the Bankers Trust Company. The interests and equities to be assigned and transferred to the Bankers Trust Company will attach to any additional or other or substitute securities which may be pledged by the applicant as security for any of its indebtedness or obligations hereinbefore mentioned, subject, however, to all prior rights in such additional or substituted securities vested or to be vested in the United States or in the Secretary of the Treasury.

We find that (1) the proposed issue and delivery of said rent notes, pursuant to said carrier contract; (2) the execution of said proposed carrier contract; (3) the assumption of obligation or liability by indorsement and guaranty in respect of the obligations of the Service Corporation; and (4) the proposed pledges of bonds and of equities or interests in bonds, as set forth in the application and amendment thereto, (a) are for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Wheeling & Lake Erie Railway Company be, and it is hereby, authorized (1) to issue and deliver to the Bankers Trust Company, trustee under the National Railway Service

Corporation's equipment-trust agreement, series A, lease basis, not to exceed \$13,629,000, face amount, of its rent notes, pursuant to a contract to be entered into by the National Railway Service Corporation, the Bankers Trust Company, and the Wheeling & Lake Erie Railway Company, under date of June 1, 1921, known as carrier contract No. 3, pursuant to the terms of National Railway Service Corporation's equipment-trust agreement, series A, lease basis, to be dated June 1, 1921; said \$13,629,000, face amount, of rent notes being equal to the aggregate of \$8,260,000, principal, and \$4,783,747.61, interest, of the prior-lien and deferred-lien certificates, and \$585,252.39 for the contingent fund, as provided in said carrier contract No. 3 and in the trust agreement; and (2) to assume obligation or liability, by the execution of a contract of indorsement and guaranty, in respect of obligations of the National Railway Service Corporation to the United States in the aggregate principal amount of \$3,304,000, for a loan under section 210 of the transportation act, 1920, as amended; said contract of indorsement and guaranty to be in the form shown by Exhibit C attached to certificate No. 98 of this commission, in Finance Docket No. 1038.

*It is further ordered,* That in order to secure the repayment of the loan of \$3,304,000, and any obligation or obligations evidencing the same, and the performance of the obligation of indorsement and guaranty according to its tenor, purport, and effect, as required by certificate No. 98, the Wheeling & Lake Erie Railway Company Inc., and it is hereby, authorized to pledge with the Secretary of the Treasury (a) not to exceed \$779,000, principal amount, of its refunding mortgage 6 per cent bonds, series B (the issue of which is authorized by the order of this commission dated June 30, 1921, in Finance Docket No. 1103); (b) not to exceed \$1,592,000, principal amount, of its refunding mortgage 5 per cent bonds, series B, subject to the existing pledge thereof with the Secretary of the Treasury as security for certain notes given by the applicant to the Director General of Railroads, covering its indebtedness to the United States arising out of operations during the period of Federal control; and also any additional securities which may hereafter be pledged with the Secretary of the Treasury as security for such indebtedness to the United States, the pledge thereof as security for the repayment of said loan of \$3,304,000, and any obligation or obligations evidencing the same, and the performance of the obligation of indorsement and guaranty, to be subject to the pledge of said bonds as security for said indebtedness, (c) not to exceed \$3,800,000, principal amount, of its refunding mortgage 6 per cent bonds, series B, and \$800,000, principal amount, of its refunding mortgage 6 per cent bonds, series C, subject to the pledge thereof with the Secretary of the Treasury

as security for loans made by the United States to the applicant under section 210 of the transportation act, 1920, as amended; and also any and all securities (including the \$660,000, principal amount, of refunding-mortgage 6 per cent bonds, series C, proposed to be pledged for the fourth installment of the loan for additions and betterments, if authority to issue said bonds be hereafter granted by this commission upon application filed by the Wheeling & Lake Erie Railway Company) that may be hereafter pledged by the applicant with the Secretary of the Treasury as security for loans made to or for the benefit of the applicant pursuant to said section 210.

*It is further ordered,* That the Wheeling & Lake Erie Railway Company be, and it is hereby, authorized to transfer, assign, and set over unto the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, all of its right, title, interest, or equity in and to the following securities, subject, however, to the prior pledges, liens, interests, or equities therein, respectively, which have been or may be granted to and vested in the United States or in the Secretary of the Treasury: (a) \$779,000, principal amount, of applicant's refunding-mortgage 5 per cent bonds, series B, the pledge of which with the Secretary of the Treasury to secure the applicant's obligations of indorsement and guaranty of said note or notes of the National Railway Service Corporation, and for the repayment of the loan evidenced thereby, is hereinbefore authorized; (b) \$1,592,000, principal amount, of the applicant's refunding-mortgage 5 per cent bonds, series B, now pledged with the Secretary of the Treasury to secure certain notes given by the applicant to the Director General of Railroads in connection with financial transactions arising out of the use of its system of railroad during the period of Federal control, as well as any securities which may be pledged hereafter for such purpose; (c) \$3,800,000, principal amount, of the applicant's refunding-mortgage 5 per cent bonds, series B, and \$800,000, principal amount, of applicant's refunding-mortgage 6 per cent bonds, series C, now pledged with the Secretary of the Treasury to secure loans made to the applicant by the United States under section 210; as well as \$660,000, principal amount, of refunding-mortgage 6 per cent bonds, series C, which the applicant proposes to have authenticated and delivered to it in the near future, and which will be pledged with the Secretary of the Treasury to secure said loans under section 210; and (d) any additional or other or substituted securities which may be pledged by the applicant as security for its indebtedness to the director general or to the United States under section 210; said transferring, assigning, and setting over to be accomplished as provided by the terms of said carrier contract No. 3.

*It is further ordered,* That the execution by the Wheeling & Lake Erie Railway Company of said carrier contract No. 3 for the lease and acquisition of the equipment therein described, be, and it is hereby, authorized and approved.

*It is further ordered,* That within 10 days after the execution of carrier contract No. 3, the applicant shall file with this commission a verified copy thereof in the form in which executed.

*It is further ordered,* That, except as herein authorized, said bonds and notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall report to this commission all pertinent facts relating to the issue of the rent notes, the execution of the contract of indorsement and guaranty, the pledge of the bonds and of equities in bonds as hereinbefore authorized, and the release of bonds from pledge, within 10 days thereafter, respectively; and for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days after the close of such periods, the applicant shall report to this commission all pertinent facts relating to the payment or other satisfaction of the rent notes, until all of the notes shall have been paid or otherwise satisfied; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or rent notes or interest thereon on the part of the United States.

70 I. C. C.



## FINANCE DOCKET No. 1269.

## IN THE MATTER OF THE APPLICATION OF THE WISCONSIN-NORTHWESTERN RAILWAY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted June 23, 1921. Decided June 30, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in Marinette County, Wis.

*Eastman & Goldman* for applicant.

*Nelson & Murphy* for protestants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Wisconsin-Northwestern Railway, a carrier subject to the interstate commerce act, on March 7, 1921, filed its application, pursuant to paragraph (18), section 1, of the interstate commerce act, for a certificate that the present and future public convenience and necessity permit the abandonment of the applicant's line of railroad extending from Girard Junction in a generally northwesterly direction to Taylor Rapids, a distance of 18.3 miles, the entire line being in the county of Marinette, State of Wisconsin. A hearing was held upon notice as required by law.

The line in question was constructed about 1903 by a company owning large tracts of timber, to enable it to cut the timber and haul it to the sawmills. It connects with a branch of the Chicago, Milwaukee & St. Paul Railway at Girard Junction. It appears that this timber is now exhausted and the applicant asks authority to abandon its line.

The territory served by this line of railroad is sparsely settled and somewhat rocky. Very little of the land has been cleared so as to permit farming. The settlement of this territory has been slow and the applicant contends that it would be years before the road could be operated at a profit. The results of operation to date have shown substantial losses. There has been no attempt made by the lumber company to dispose of the land and it has been generally understood that the road would be dismantled as soon as the timber was cut. There are no towns or stations on the line, although there are one or two platforms which have been con-

structed to aid in the loading of cars. The shipments of the farmers along the route have, in the past, been practically negligible and no reason appears why traffic should increase in the near future. The farmers residing along the line are not wholly dependent upon it for transportation facilities, but by hauling their produce from 5 to 10 miles they can reach the lines of the Chicago & North Western Railway Company, the Minneapolis, St. Paul & Sault Ste. Marie Railway Company, or the Chicago, Milwaukee & St. Paul Railway Company. The wagon roads at present are not in very good condition but are susceptible of improvement. The record is clear that but little use has been made of this line by the farmers in the past, and that there is little prospect of any material increase in its freight or passenger traffic in the near future.

We find that the present and future public convenience and necessity permit the abandonment by the applicant of the line of railroad hereinbefore described. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Wisconsin-Northwestern Railway of its line of railroad described in said report.

*It is ordered,* That the Wisconsin-Northwestern Railway be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That the Wisconsin-Northwestern Railway, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.



## FINANCE DOCKET No. 1420.

## IN THE MATTER OF THE APPLICATION OF THE ALABAMA, FLORIDA &amp; GULF RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted June 23, 1921. Decided June 30, 1921.*

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Certificate issued authorizing construction of lines of railroad between Dothan and Wilson, Ala., and between Greenwood and Marianna, Fla.

*Hays & Wadhams* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
By DIVISION 4:

The Alabama, Florida & Gulf Railroad Company, a carrier by railroad subject to the interstate commerce act, on April 28, 1921, filed an application for a certificate that the present and future public convenience and necessity require or will require the construction by the applicant of lines of railroad extending from Wilson to Dothan, Ala., a distance of 4 miles, and from Greenwood to Marianna, Fla., a distance of 9 miles. No representations were made in the matter by the Railroad Commission of Florida. The Public Service Commission of Alabama recommended that the application be granted. The case was submitted on the record without formal hearing.

The applicant operates a line of railroad extending from a connection with the Atlantic Coast Line at Cowarts, Ala., in a southerly direction to Greenwood, Fla. It has no connections at the latter point and no access to Dothan except over a circuitous route via Cowarts. It proposes to build its own line to Dothan, connecting at that point with the Atlantic Coast Line, the Central of Georgia Railway, and the Atlanta & St. Andrews Bay Railway. At Marianna, the southern terminus of its Greenwood extension, connection would be made with the Louisville & Nashville Railroad and the Marianna & Blountstown Railroad. There are several small communities between Greenwood and Wilson, but no new stations will be established except at the terminals of the proposed extensions.

The chief reason assigned by the applicant as showing the benefits to the public from the project are as follows: The 9 miles of line between Greenwood and Marianna will give the applicant direct

access to southern points, as well as afford transportation facilities to the territory between those points. There is a considerable volume of traffic now moving from Greenwood to Marianna by truck. The applicant predicts an interchange traffic with the Marianna & Blountstown Railroad of 100 carloads per month, tonnage from Marianna shippers of 150 carloads per month, and with the Louisville & Nashville of 25 carloads per month, resulting in an increase in total revenues of \$8,500 per month. At the Dothan end of its line it expects to derive a revenue from local freight traffic of \$2,300 per month and an addition to its passenger revenues of \$2,000 per month, making a grand total increase in revenues of \$12,800 per month. The connection at Dothan, it is estimated, will reduce present rates to communities on its line by 40 per cent, by eliminating a two-line circuitous movement.

The territory now served and to be served by the proposed extension is described as highly productive of forest and agricultural products, for which the applicant has not been able to furnish direct through transportation because of lack of connections which the proposed extensions will afford.

The cost of the work is estimated at \$160,955 for road and \$10,000 for equipment. No report of survey has been made. It is stated that all necessary rights of way and \$40,000 in cash will be donated by the cities of Dothan and Marianna and the town of Greenwood. The remainder of the cost will be financed by an issue of bonds, for the authorization of which the applicant has filed its application. At present it has no funded debt, but has outstanding bills payable amounting to \$113,093.77, as against a book cost of road and equipment of \$155,762.51. Its net operating income for the first 11 months of 1920 was \$1,659.39, which was more than offset by hire of equipment and miscellaneous items, leaving a net deficit of \$1,898.78. Operation of the new line, in connection with its present mileage between Wilson and Greenwood, the applicant predicts, will produce an addition to net income of \$67,380 the first year and \$103,861.92 the fifth year, since it anticipates a large increase in tonnage handled, with relatively small increases in operating expenses.

Upon the facts presented, we find that the present and future public convenience and necessity require the construction of the extensions in question as proposed in the application. A certificate to that effect will accordingly be issued.

*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified*, That the present and future public convenience and necessity require and will require the construction of lines of railroad extending from Wilson to Dothan, Ala., and from Greenwood to Marianna, Fla., described in the report aforesaid.

*It is ordered*, That the Alabama, Florida & Gulf Railroad Company be, and it is hereby, authorized to construct and operate said lines of railroad.

*It is further ordered*, That the Alabama, Florida & Gulf Railroad Company, when filing schedules establishing rates and fares on said new lines of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1227.

## IN THE MATTER OF THE APPLICATION OF THE MINNEAPOLIS &amp; ST. LOUIS RAILROAD COMPANY FOR AUTHORITY TO ISSUE REFUNDING AND EXTENSION MORTGAGE BONDS.

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*Submitted June 10, 1921. Decided July 1, 1921.*

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Authority granted to issue \$714,000 of refunding and extension mortgage 5 per cent gold bonds, to be placed in the applicant's treasury. Previous report 67 I. C. C., 362.

*M. L. Bell* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

In our report of March 30, 1921, 67 I. C. C., 362, we reserved for further consideration the matter of authorizing the issue of \$714,000 of refunding and extension mortgage 5 per cent gold bonds by the Minneapolis & St. Louis Railroad Company for the purpose of reimbursing its treasury for expenditures made for retirement of equipment obligations and for additions and betterments to roadway and structures.

The applicant has shown expenditures for additions and betterments amounting to \$398,000, and for retirement of equipment obligations amounting to \$316,000. It proposes to issue bonds and place them in its treasury in respect of these expenditures.

We find that the proposed issue by the applicant of \$714,000 of its refunding and extension mortgage 5 per cent gold bonds (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service; and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

## SUPPLEMENTAL ORDER.

Further investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings

TO I. C. C.

of fact and conclusions thereon, which supplemental report is hereby referred to and made a part hereof:

*It is ordered*, That the Minneapolis & St. Louis Railroad Company be, and it is hereby, authorized to issue \$714,000 of its refunding and extension mortgage 5 per cent gold bonds under and pursuant to, and to be secured by, the refunding and extension mortgage dated January 1, 1912, made by the applicant to the Guaranty Trust Company of New York, trustee; said bonds to mature February 1, 1962, and to bear interest at the rate of 5 per cent per annum, payable quarterly on the 1st day of February, May, August, and November in each year; and said bonds to be placed in the applicant's treasury for subsequent disposition under our order in reimbursement for expenditures made for additions and betterments and for retirement of equipment obligations, as set forth in said supplemental report.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue and placing in its treasury of said bonds, such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 74.

IN THE MATTER OF THE APPLICATION OF THE AR-  
KANSAS & LOUISIANA MISSOURI RAILWAY COMPANY  
FOR AUTHORITY TO ISSUE CAPITAL STOCK.

*Submitted December 1, 1920. Decided July 5, 1921.*

Authority granted to issue at par for cash \$1,000,000 of capital stock, the pro-  
ceeds thereof to be used in acquiring and rebuilding a line of railroad ex-  
tending from Monroe, La., to Crossett, Ark., and for certain other purposes.

*Luther M. Walter* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Arkansas & Louisiana Missouri Railway Company, a corpora-  
tion organized for the purpose of engaging in transportation by  
railroad in interstate commerce, has duly applied for authority under  
section 20a of the interstate commerce act to issue 10,000 shares of  
its common capital stock, of the par value of \$100, for cash at par.  
No objection has been made to the granting of the application.

It is proposed that the proceeds of such stock will be used for the  
following purposes, to wit:

Purchase of road.....	\$375, 000
Reconstruction of road purchased.....	445, 000
Working funds.....	30, 000
Purchase of additional transportation facilities.....	150, 000
Total.....	1, 000, 000

The applicant was organized July 31, 1920, under the laws of the  
State of Louisiana, to purchase and operate the railroad property  
formerly owned by the Arkansas & Louisiana Midland Railway  
Company, extending from Monroe, La., to Crossett, Ark. Purchase  
of the physical property of the last-named railroad was made by  
E. A. Frost, F. T. White, and G. S. Prestridge, on August 2, 1920,  
for the sum of \$375,000, at public auction held pursuant to a decree  
entered April 23, 1920, in the United States District Court for the  
Western District of Louisiana in a cause entitled *Coles v. Ark. & La.*  
*Mid. Ry. Co.*, No. 74, in equity. It is the intention of the purchasers

of this road to convey it to the applicant company at the same price for which it was acquired. The physical condition of the property is such that the road must be substantially rebuilt.

Acquisition and operation by the applicant of the line of railroad extending from Bastrop, La., to Crossett, Ark., was authorized by our certificate of public convenience and necessity, dated June 21, 1921, in *Certificate to Arkansas & Louisiana Missouri Ry.*, 67 I. C. C., 781.

The applicant will assume no financial obligations outstanding against the Arkansas & Louisiana Midland Railway Company and there will be no bonded indebtedness. It will be financed largely by local capital, the owners of which have interests in common with the railroad.

We find that the proposed issue of capital stock by the applicant (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

#### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Arkansas & Louisiana Missouri Railway Company be, and it is hereby, authorized to issue 10,000 shares of common capital stock, of the par value of \$100, for cash, at not less than par; the shares of stock so issued to be represented by certificates in the form submitted with the application, and the proceeds of the sale thereof to be used in the acquisition and rebuilding of the railroad property referred to in said report, and for other purposes, as set forth in the application.

*It is further ordered*, That said stock shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, nor shall the proceeds thereof be used, in any manner or for any purpose, except as herein authorized.

*It is further ordered*, That the applicant shall, for the period ending December 31, 1921, and for each six months' period thereafter, report to this commission, within 30 days from the close of such periods, all pertinent facts relating (1) to the issue of said stock, and (2) to the application of the proceeds thereof, and continue to

file such reports until all of said stock shall have been issued and all proceeds thereof applied; such reports to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

70 I. C. C.



## FINANCE DOCKET No. 1096.

**IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY FOR AUTHORITY TO ISSUE NOTES, TO GUARANTEE OBLIGATIONS, AND TO PLEDGE EQUITIES.**

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*Submitted June 27, 1921. Decided July 5, 1921.*

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**Authority granted:**

1. To issue rent notes for not exceeding \$6,470,230.80 under the terms of a carrier contract to be entered into pursuant to the National Railway Service Corporation's equipment-trust agreement, series A, lease basis.
2. To assume obligation or liability as indorser and guarantor in respect of obligations of the National Railway Service Corporation to the United States for a loan in the aggregate amount of \$1,568,540.
3. To pledge with the Secretary of the Treasury interests and equities in certain bonds to secure the repayment of the loan of \$1,568,540, and any obligation or obligations evidencing the same, and the performance of said obligation of indorsement and guaranty.
4. To pledge with and/or transfer and assign to the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment trust, series A, lease basis, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein.

*M. L. Bell* for applicant.

**REPORT OF THE COMMISSION.**

**DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.**

**By DIVISION 4:**

The Chicago, Rock Island & Pacific Railway Company, a common carrier by railroad engaged in interstate commerce, by application and amendments thereto duly filed in this proceeding, is seeking authority under section 20a of the interstate commerce act (1) to execute carrier contract No. 1, pursuant to the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, for the lease and acquisition of certain equipment; (2) to assume obligation or liability as indorser and guarantor in respect of a note or notes to be given by the National Railway Service Corporation for a loan of \$1,568,540 under section 210 of the transportation act, 1920, as amended, to be used in connection with the procurement of the equipment, and for such other authority as may be requisite or necessary in the premises; (3) to issue rent notes for an amount not exceeding \$6,470,230.80, covering rental of the equipment; and (4) to

enter into an agreement with the Bankers Trust Company granting equities or interests in certain bonds to secure the performance of the applicant's obligations under said trust. No objection has been made to the granting of the authority requested.

As specified in our certificate No. 96, dated May 31, 1921, in *Loan to Chicago, Rock Island & Pacific Ry.*, 67 I. C. C., 569, we have heretofore approved the National Railway Service Corporation as an agency or organization, in the language of the statute, "most appropriate in the public interest" to or through which loans under section 210 of the transportation act, 1920, as amended, may be made for the construction and sale or lease of equipment to carriers. We have also approved the making of a loan under that section of \$1,568,540 by the United States to the Service Corporation for the purpose of aiding the applicant in providing itself with equipment necessary to enable it to properly meet the transportation needs of the public.

The National Railway Service Corporation's equipment trust, series A, lease basis, will be established by an agreement between the National Railway Service Corporation and the Bankers Trust Company. This agreement will be dated June 1, 1921, and under it trust certificates will be issued by the Service Corporation, which will be known as prior-lien 7 per cent certificates and deferred-lien 6 per cent certificates. The equipment provided thereunder, the agreements executed in accordance therewith, and the rent notes to be issued by the applicant in pursuance thereof, will be held in trust, dealt with, and administered by the Bankers Trust Company for the benefit of the holders of said certificates as therein prescribed.

The loan of \$1,568,540 will be available for use by the Service Corporation in aiding the applicant to provide itself with certain equipment through the equipment trust. The rent notes will evidence the obligation of the applicant to pay rent for the equipment. A contract of indorsement and guaranty will be executed by the applicant in respect of the obligation of the Service Corporation to the United States in the aggregate sum of \$1,568,540, in accordance with the requirements of our certificate No. 96.

The applicant has heretofore pledged with the Secretary of the Treasury \$2,972,000 of its first and refunding mortgage 4 per cent gold bonds, due April 1, 1934, to secure a note dated June 30, 1919, for \$1,783,000, payable to the Director General of Railroads; and \$3,000,000 of its first and refunding mortgage 4 per cent gold bonds, due April 1, 1934, to secure a note dated December 31, 1919, for \$1,800,000, payable to the Director General of Railroads. Both of said notes are further secured by the deposit of certain bonds of the St. Paul & Kansas City Short Line Railroad Company. the Rock

Island, Arkansas & Louisiana Railroad Company, and the Arkansas & Memphis Railway Bridge & Terminal Company.

To secure its indebtedness to the War Finance Corporation, represented by two notes aggregating \$10,430,000, the applicant has pledged with the Secretary of the Treasury \$19,798,000 of its first and refunding mortgage 4 per cent gold bonds, due April 1, 1934. As collateral security for loans under section 210 heretofore received by it, the applicant has pledged certain bonds and other securities.

All of the applicant's present and future equity, right, title, and interest in and to the securities mentioned in the two preceding paragraphs are to be assigned, transferred, pledged, and set over unto the Secretary of the Treasury as further security for the performance of the applicant's obligations of indorsement and guaranty and for the repayment of the loan to the Service Corporation.

By a provision to be included in carrier contract No. 1, or to be covered by a separate agreement, the applicant proposes to transfer, assign, and set over to the Bankers Trust Company, as trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, dated June 1, 1921, all of its right, title, interest, and equity in and to certain of the aforesaid securities pledged and which may hereafter be pledged with the Secretary of the Treasury. The proposed pledges or assignments to the Secretary of the Treasury or to the Bankers Trust Company of equities or interests in the bonds mentioned, will include any securities that may hereafter be substituted therefor, in whole or in part, subject, however, to all prior rights in such other or substituted securities vested or to become vested in the United States or in the Secretary of the Treasury.

We find that (1) the proposed execution and delivery of said rent notes, pursuant to said carrier contract, (2) the execution of the proposed carrier contract, (3) the assumption of obligation or liability by indorsement or guaranty in respect of the obligations of the Service Corporation, and (4) the proposed pledges of equities or interests in bonds, as set forth in the application and amendments thereto, (a) are for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

70 I. C. C.

## ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized (1) to issue and deliver to the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, not to exceed \$6,470,230.80, face amount, of its rent notes, pursuant to a contract to be entered into by the National Railway Service Corporation, the Bankers Trust Company, and the Chicago, Rock Island & Pacific Railway Company, under date of June 1, 1921, known as carrier contract No. 1, pursuant to the terms of the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, to be dated June 1, 1921; said \$6,470,230.80, face amount, of rent notes being equal to the aggregate of \$3,921,352, principal, and \$2,271,036.11, interest, of the prior-lien and deferred-lien certificates, and \$277,842.69 for the contingent fund, as provided in said carrier contract No. 1, and in said trust agreement; and (2) to assume obligation or liability, by the execution of a contract of indorsement and guaranty, in respect of obligations of the National Railway Service Corporation to the United States in the aggregate amount of \$1,568,540, for a loan under section 210 of the transportation act, 1920, as amended; said contract of indorsement and guaranty to be in the form shown by exhibit C attached to certificate No. 96 of this commission, in Finance Docket No. 945.

*It is further ordered*, That in order to secure the repayment of said loan of \$1,568,540, and any obligation or obligations evidencing the same, and the performance of said obligation of indorsement and guaranty according to its tenor, purport, and effect, as required by said certificate No. 96, the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to pledge with the Secretary of the Treasury (a) not to exceed \$5,972,000, principal amount, of its first and refunding mortgage 4 per cent gold bonds, due April 1, 1934; and not to exceed \$2,750,000, principal amount, of St. Paul & Kansas City Short Line Railway Company 4½ per cent gold bonds, due February 1, 1941, which are guaranteed as to principal and interest by the applicant; and not to exceed \$1,950,000, principal amount, of Rock Island, Arkansas & Louisiana Railroad Company first-mortgage 4½ per cent gold bonds, due March 1, 1934, which are guaranteed as to principal and interest by the applicant; the pledge of said bonds to be subject to the existing pledge thereof

with the Secretary of the Treasury as security for certain notes required by the Director General of Railroads to be executed and given by the applicant in connection with financial transactions arising out of the use of its system of railroad during the period of Federal control; and also any additional or other securities which may hereafter be pledged with the Secretary of the Treasury as security for indebtedness to the United States arising out of Federal control, the pledge thereof as security for the repayment of said loan of \$1,568,540, and any obligation or obligations evidencing the same, and the performance of said obligation of indorsement and guaranty, to be subject to the pledge of said bonds as security for such indebtedness; and (b) not to exceed \$19,798,000, principal amount, of its first and refunding mortgage 4 per cent gold bonds, due April 1, 1934, subject to the existing pledge thereof with the Secretary of the Treasury as security for the repayment of loans made to the applicant by the War Finance Corporation evidenced by demand notes aggregating \$10,430,000; and (c) also any and all securities that may hereafter be pledged by the applicant with the Secretary of the Treasury as security for loans made to or for the benefit of the applicant, pursuant to said section 210, subject to the pledge thereof as security for such loans.

*It is further ordered,* That, as collateral security for its due and prompt compliance with all or singular of its obligations under said carrier contract No. 1, and said trust agreement, and for the payment by it of the amounts due and payable in respect of its notes, as well as other expenses and charges undertaken and assumed by it, the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to pledge with and/or transfer and assign to the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, all of its right, title, interest, or equity in and to the following securities, subject, however, to the prior pledges, liens, interests, or equities therein respectively, which have been or may be granted to or vested in the United States or in the Secretary of the Treasury: (a) \$5,972,000, principal amount, of applicant's first and refunding mortgage 4 per cent gold bonds; \$2,750,000, principal amount, of St. Paul & Kansas City Short Line Railway Company 4½ per cent gold bonds; and \$1,950,000, principal amount, of Rock Island, Arkansas & Louisiana Railroad Company first-mortgage 4½ per cent gold bonds, all of which are now pledged as security for notes to the Director General of Railroads, including also any securities which may be pledged hereafter for such purpose; (b) \$19,798,000, principal amount, of the applicant's first and refunding mortgage gold bonds, which are now pledged as security for loans to the applicant

from the War Finance Corporation; (c) \$12,880,000, principal amount, of the applicant's first and refunding mortgage gold bonds, due April 1, 1934; \$15,000, principal amount, of Rock Island, Arkansas & Louisiana Railroad Company first-mortgage 4½ per cent gold bonds, due March 1, 1934; and \$7,000, principal amount, of St. Paul & Kansas City Short Line Railway Company first-mortgage 4½ per cent gold bonds, due February 1, 1941, all of which are now pledged with the Secretary of the Treasury to secure loans made to the applicant by the United States under said section 210; and (d) any additional or other or substituted securities which have been or may be pledged by the applicant as security for its indebtedness to the director general, or to the United States for loans under said section 210; said pledging, transferring, and assigning to be accomplished as provided by the terms of said carrier contract No. 1.

*It is further ordered*, That the execution by the Chicago, Rock Island & Pacific Railway Company of said carrier contract No. 1 for the lease and acquisition of the equipment therein described be, and it is hereby, authorized and approved.

*It is further ordered*, That within 10 days after the execution of said carrier contract No. 1, the applicant shall file with this commission a verified copy thereof in the form in which executed.

*It is further ordered*, That, except as herein authorized, said bonds and rent notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission all pertinent facts relating to the issue of said rent notes, the execution of said contract of indorsement and guaranty, the pledge of equities in bonds as hereinbefore authorized, and the release of bonds from pledge, within 10 days thereafter, respectively; and for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days after the close of such periods, the applicant shall report to this commission all pertinent facts relating to the payment or other satisfaction of said rent notes, until all of said notes shall have been paid or otherwise satisfied; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*. That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or rent notes, or interest thereon, on the part of the United States.



## FINANCE DOCKET No. 1097.

## IN THE MATTER OF THE APPLICATION OF THE MINNEAPOLIS &amp; ST. LOUIS RAILROAD COMPANY FOR AUTHORITY TO ISSUE NOTES, TO GUARANTEE OBLIGATIONS, AND TO PLEDGE BONDS AND EQUITIES.

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*Submitted June 17, 1921. Decided July 5, 1921.*

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## Authority granted:

1. To issue rent notes for not exceeding \$1,593,033.75 under the terms of a carrier contract to be entered into pursuant to the National Railway Service Corporation's equipment-trust agreement, series A, lease basis.
2. To assume obligation or liability as indorser and guarantor in respect of obligations of the National Railway Service Corporation to the United States for a loan in the aggregate amount of \$386,190.
3. To pledge with the Secretary of the Treasury not to exceed \$219,000 of refunding and extension mortgage 5 per cent gold bonds, series A, and interests and equities in certain other bonds to secure the repayment of the loan of \$386,190, and any obligation or obligations evidencing the same, and the performance of said obligation of indorsement and guaranty.
4. To pledge with and/or transfer and assign to the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein.

*M. L. Bell* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

## By Division 4:

The Minneapolis & St. Louis Railroad Company, a common carrier by railroad engaged in interstate commerce, by application and amendments thereto duly filed in this proceeding, is seeking authority under section 20a of the interstate commerce act (1) to execute carrier contract No. 2, pursuant to the National Railway Service Corporation's equipment trust, series A, lease basis, for the lease of 15 freight locomotives costing approximately \$965,475; (2) to assume obligation or liability as indorser and guarantor in respect of a note or notes to be given by the National Railway Service Corporation for a loan of \$386,190 under section 210 of the transportation act, 1920, as amended, to be used in connection with the procurement of the equipment, and for such other authority as may be requisite



or necessary in the premises; (3) to issue rent notes for \$1,593,033.75, covering the rental of the equipment; and (4) to enter into an agreement with the Bankers Trust Company, granting equities or interests in certain bonds to secure the performance of the applicant's obligations under said trust. No objection has been made to the granting of the authority requested.

As specified in our certificate No. 97, dated June 28, 1921, in *Loan to Minneapolis & St. Louis R. R.*, 67 I. C. C., 580, we have heretofore approved the National Railway Service Corporation as an agency or organization, in the language of the statute, "most appropriate in the public interest," to or through which loans under section 210 of the transportation act, 1920, as amended, may be made for the construction and sale or lease of equipment to carriers. We have also approved the making of a loan, under that section, of \$386,190 by the United States to the Service Corporation for the purpose of aiding the applicant in providing itself with equipment necessary to enable it properly to meet the transportation needs of the public.

The National Railway Service Corporation equipment trust, series A, lease basis, will be established by an agreement between the National Railway Service Corporation and the Bankers Trust Company. This agreement will be dated June 1, 1921, and under it trust certificates will be issued by the Service Corporation, which will be known as prior-lien 7 per cent certificates and deferred-lien 6 per cent certificates. The equipment provided thereunder, the agreements executed in accordance therewith, and the rent notes to be issued by the applicant in pursuance thereof, will be held in trust, dealt with, and administered by the Bankers Trust Company for the benefit of the holders of said certificates as therein prescribed.

The loan of \$386,190 will be available for use by the Service Corporation in aiding the applicant to provide itself with 15 freight locomotives. The rent notes will evidence the obligation of the applicant to pay rent for the locomotives. A contract of indorsement and guaranty will be executed by the applicant in respect of obligations of the Service Corporation to the United States in the aggregate sum of \$386,190, in accordance with the requirements in our certificate No. 97.

As security in part for the loan to the Service Corporation, the applicant will pledge with the Secretary of the Treasury \$219,000 of its refunding and extension mortgage 5 per cent gold bonds, series A.

To secure a note for \$750,000 required by the Director General of Railroads to be given by the applicant in connection with financial

transactions arising out of operations during the period of Federal control, the applicant has heretofore pledged with the Secretary of the Treasury \$1,500,000 of its refunding and extension mortgage 5 per cent gold bonds, series A. The deposit of additional bonds or other securities by the applicant may be required for the greater security of such indebtedness. As further security for the performance of its obligations of indorsement and guaranty and for the repayment of the loan to the Service Corporation, the applicant is to grant a second lien on the bonds under pledge, or to be pledged, with the Secretary of the Treasury to secure the indebtedness to the director general, and upon all of the securities which have been pledged, or which will be pledged, to secure other loans made or to be made to the applicant under section 210. The bonds now under pledge for previous loans are \$2,377,000 of the applicant's refunding and extension mortgage 50-year 5 per cent gold bonds, series A.

By a provision to be included in carrier contract No. 2, or to be covered by a separate agreement, the applicant proposes to transfer, assign, and set over to the Bankers Trust Company, as trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, dated June 1, 1921, all of its right, title, interest, and equity in and to the following securities, subject, however, to the prior pledges, liens, interests, and equities therein, respectively, which have been, or will be, granted to or vested in the United States or in the Secretary of the Treasury: \$1,500,000 of refunding and extension mortgage 5 per cent gold bonds, series A, being the bonds now under pledge with the Secretary of the Treasury as security for the indebtedness to the director general, and on which a second lien is to be created in favor of the Secretary of the Treasury, to secure the loan to the Service Corporation.

We find (1) that the execution of the proposed carrier contract by the applicant, (2) the proposed issue and delivery of rent notes pursuant to the carrier contract, (3) the proposed assumption of obligation or liability in respect of the obligations of the Service Corporation to the United States, and (4) the proposed pledges of bonds and equities or interests in bonds as set forth in the application and amendments thereto, (a) are for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

70 I. C. C.

**ORDER.**

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Minneapolis & St. Louis Railroad Company be, and it is hereby, authorized (1) to issue and deliver to the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, not to exceed \$1,593,033.75, face amount, of its rent notes, pursuant to a contract to be entered into by the National Railway Service Corporation, the Bankers Trust Company, and the Minneapolis & St. Louis Railroad Company, under date of June 1, 1921, known as carrier contract No. 2, pursuant to the terms of the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, to be dated June 1, 1921; said \$1,593,033.75, face amount, of rent notes being equal to the aggregate of \$965,475, principal, and \$559,151.18, interest, of the prior-lien and deferred-lien certificates, and \$68,407.57 for the contingent fund, as provided in said carrier contract No. 2, and in said trust agreement; and (2) to assume obligation or liability, by the execution of a contract of indorsement and guaranty, in respect of obligations of the National Railway Service Corporation to the United States in the aggregate principal amount of \$386,190, for a loan under section 210 of the transportation act, 1920, as amended; said contract of indorsement and guaranty to be in the form shown by exhibit C attached to certificate No. 97 of this commission, in Finance Docket No. 990.

*It is further ordered*, That in order to secure the repayment of said loan of \$386,190, and any obligation or obligations evidencing the same, and the performance of said obligation of indorsement and guaranty according to its tenor, purport, and effect, as required by said certificate No. 97, the Minneapolis & St. Louis Railroad Company be, and it is hereby, authorized to pledge with the Secretary of the Treasury (a) not to exceed \$219,000 of its refunding and extension mortgage 5 per cent gold bonds, series A, due 1962; and (b) not to exceed \$1,500,000 of its refunding and extension mortgage 5 per cent gold bonds, series A, due 1962, subject to the existing pledge thereof with the Secretary of the Treasury as security for a note in the sum of \$750,000 required by the Director General of Railroads to be given by the applicant in connection with financial transactions arising out of operations during the period of Federal control; and also any additional securities which may hereafter be pledged with the Sec-

retary of the Treasury as security for indebtedness to the United States arising out of Federal control, the pledge thereof as security for the repayment of said loan of \$386,190 and any obligation or obligations evidencing the same and the performance of said obligation of indorsement and guaranty to be subject to the pledge as security for such indebtedness; and (c) also any and all securities that have been or may hereafter be pledged by the applicant with the Secretary of the Treasury as security for loans made to, or for the benefit of, the applicant pursuant to said section 210, subject to the pledge thereof as security for such loans.

*It is further ordered*, That, as collateral security for its due and prompt compliance with all and singular of its obligations under said carrier contract No. 2 and said trust agreement, and for the payment by it of all amounts due and payable in respect of its rent notes, as well as all other expenses and charges undertaken and assumed by it, the Minneapolis & St. Louis Railroad Company be, and it is hereby, authorized to pledge with and/or transfer and assign to the Bankers Trust Company, trustee under the National Railway Service Corporation's equipment-trust agreement, series A, lease basis, all of its right, title, interest, and equity in and to the following securities, subject, however, to the prior pledges, liens, interests, or equities therein, respectively, which have been or may be granted to or vested in the United States or in the Secretary of the Treasury: \$1,500,000 of applicant's refunding and extension mortgage 5 per cent gold bonds, series A, due 1962, now pledged with the Secretary of the Treasury to secure the note for \$750,000 given by the applicant in connection with financial transactions arising out of the use of its system of railroad during the period of Federal control, as well as any other securities which may be pledged hereafter for such purposes; said pledging, transferring, and assigning to be accomplished as provided by the terms of said carrier contract No. 2.

*It is further ordered*, That the execution by the Minneapolis & St. Louis Railroad Company of said carrier contract No. 2, for the lease and acquisition of equipment therein described, be, and it is hereby, authorized and approved.

*It is further ordered*, That within 10 days after the execution of said carrier contract No. 2, the applicant shall file with this commission a verified copy thereof in the form in which executed.

*It is further ordered*, That, except as herein authorized, said bonds or notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission all pertinent facts relating to the issue of said rent notes,

the execution of said contract of indorsement and guaranty, the pledge of said bonds and of equities in bonds, as hereinbefore authorized, and the release of bonds from pledge, within 10 days thereafter, respectively; and for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days after the close of such periods, the applicant shall report to this commission all pertinent facts relating to the payment or other satisfaction of said rent notes, until all of said notes shall have been paid or otherwise satisfied; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or rent notes, or interest thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 1166.

IN THE MATTER OF THE APPLICATION OF THE  
GOLDEN BELT RAILROAD OF KANSAS FOR A CER-  
TIFICATE OF PUBLIC CONVENIENCE AND NECES-  
SITY.

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*Submitted June 20, 1921. Decided July 5, 1921.*

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On resubmission, conclusions in former report, 67 I. C. C., 370, affirmed. Ap-  
plication denied.

*Harry Freese* for applicant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On April 4, 1921, 67 I. C. C., 370, we held that public convenience and necessity were not shown to require the construction of a new line of railroad by the applicant between Great Bend and Hays, Kans. Thereafter the applicant petitioned for leave to submit additional information and the case was reopened for that purpose. Further allegations, supported by statistical exhibits, were filed and have been carefully considered.

The main points now relied upon by the applicant are substantially the same as those originally advanced by it, with some slight changes in the form of statement and additional discussion of the potential value of the proposed line. It is urged, in substance, that the new line would enable wheat growers to ship their product to Gulf ports instead of to more distant eastern points; that prices of grain at Chicago and Kansas City have been manipulated to the detriment of growers; that shipments of wheat to Galveston have increased in volume, indicating a logical trend of movement in that direction; that the growers will be helped by the applicant with respect to car supply, lack of sufficient cars having made it necessary to store the wheat at a loss; that there is, or would be, considerable passenger travel between points in southern Kansas and Hays, where a State experiment station is located; that the new line would materially shorten the wagon haul for a considerable number of farmers; that this enterprise is a local one, which the farmers and other residents of the several townships are prepared to finance without regard to prospective return on the securities; and that no objection has been

70 I. C. C.

raised by anyone to the granting of the application itself should constitute a sufficient recommendation. The probable volume of traffic are submitted.

The facts set out by the applicant do not disadvantage in hauling grain to Gulf ports, or at existing lines can not take care of the traffic if submitted. It is not to be expected that a passenger traffic anticipated by the applicant will prove of much value point of revenues. The remaining advantage, the wagon haul within a certain area, would not be but, as we pointed out in our former report, the advantage might accrue is so circumscribed as revenues from tonnage obtained therefrom would pay costs of operation and fixed charges.

Upon the whole record, we can find no warranted conclusion reached in our original report. An order denying the application.

#### ORDER.

The above-entitled proceeding in the application for permission of further proofs, and things involved therein having been on the date hereof, made and filed its findings of fact and conclusions thereon hereby referred to and made a part hereof.

*It is ordered,* That the application be,

OF THE RE-  
TEXAS RAIL-  
ROAD TO

... certificate  
... ..

... and Porter.

... Railway  
... railroad engaged

Indorsement  
on the part  
of I. C. C.



## FINANCE DOCKET No. 1211.

## IN THE MATTER OF THE APPLICATION OF THE PANHANDLE &amp; SANTA FE RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted July 1, 1921. Decided July 5, 1921.*

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Proposed operation by the Panhandle & Santa Fe Railway Company of a line of railroad in Oklahoma and Texas held not to be within the scope of paragraph (18) of section 1 of the interstate commerce act. Proceeding dismissed.

*Lee F. English* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Panhandle & Santa Fe Railway Company, a carrier by railroad subject to the interstate commerce act, on January 17, 1921, filed its application, pursuant to paragraph (18) of section 1 of the interstate commerce act, for a certificate of public convenience and necessity authorizing it to operate a line of railroad belonging to the North Texas & Santa Fe Railway Company, extending from a point of connection with the Atchison, Topeka & Santa Fe Railway at Shattuck, Ellis County, Okla., in a general westerly and southwesterly direction through Lipscomb, Ochiltree, and Hansford Counties, Tex., to Spearman, Tex., a distance of 84.74 miles. No application under section 5 of the act has been filed.

Upon consideration of the record we find that the application concerns the operation of a line of railroad which was in operation in interstate commerce prior to the effective date of said paragraph (18). Under the circumstances it is our opinion that the proposals do not fall within the prohibition of that paragraph. An order will be entered dismissing the proceeding.

## ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That this proceeding be, and it is hereby, dismissed.  
70 I. C. C.

FINANCE DOCKET No. 1480.

IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE MISSOURI, KANSAS & TEXAS RAILWAY COMPANY OF TEXAS FOR AUTHORITY TO EXTEND RECEIVER'S CERTIFICATES.

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*Submitted June 13, 1921. Decided July 5, 1921.*

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Authority granted to extend the maturity of \$3,000,000 of receiver's certificates from February 15, 1921, to February 15, 1922, by indorsement thereon.

*Britton & Gray* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

C. E. Schaff, receiver of the Missouri, Kansas & Texas Railway Company of Texas, acting as a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to extend by indorsement the maturity of \$3,000,000 of receiver's certificates from February 15, 1921, to February 15, 1922. No objection has been made to the granting of the application.

The applicant was appointed receiver of the Missouri, Kansas & Texas Railway Company of Texas, and of all its property and assets, by an order of the District Court of the United States for the Northern District of Texas, entered in consolidated cause in equity No. 2794/50, on September 27, 1915.

Pursuant to authority contained in an order of court dated February 13, 1917, the receiver issued, for the purpose of obtaining funds to meet necessary expenses of operation, \$3,000,000 of certificates bearing interest at the rate of 5 per cent per annum, of which \$2,241,000 were taken by the public and \$759,000 pledged with the Director General of Railroads as collateral security for loans aggregating an equal principal amount. These certificates as issued matured August 15, 1918. From time to time the date of maturity was extended to February 15, 1921, in accordance with authority conferred by the court, and the interest fixed at the rate of 6 per cent per annum.

By an order dated February 10, 1921, the court authorized the receiver to further extend the maturity date of the certificates to February 15, 1922, by indorsement thereon. The rate of interest under the extension will be 6 per cent per annum. The indorsement provides that the extension is made "with the privilege on the part

of the receiver, or the reorganized company, if the Missouri, Kansas & Texas Railway Company of Texas shall sooner be reorganized, to pay off and discharge the certificates at any time funds may be available for that purpose."

The applicant represents that as all of the income was needed for maintenance and operation of road, he was not able to make payment of the certificates on February 15, 1921, and that the owners and holders of all of the certificates have agreed to the proposed extension.

The receiver is the officer of the court and is acting under the authority of the court. While it is within our province to give the authorization and consent under section 20a of the interstate commerce act, it is not to be understood that by giving such authority we pass upon or in anywise determine or affect the nature of the rights or liens to be enjoyed under said certificates or the priority of said certificates in their relation to any other liens.

We find that the proposed extension of maturity of the aforesaid receiver's certificates by the applicant (a) is for a lawful object within the duly authorized purposes of the receiver, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by him of service to the public as a common carrier, and which will not impair his ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That C. E. Schaff, receiver of the Missouri, Kansas & Texas Railway Company of Texas be, and he is hereby, authorized to extend the date of maturity to February 15, 1922, of \$3,000,000, principal amount, of his receiver's certificates of indebtedness, series 1917, in conformity with and as authorized by the order of the District Court of the United States for the Northern District of Texas, made in consolidated cause in equity No. 2794/50, dated February 10, 1921; said extension of maturity to be accomplished by indorsement on said certificates, as set forth in the application.

*It is further ordered*, That nothing herein shall be construed to imply any representation, guaranty, or obligation as to said receiver's certificates, or interest thereon, or rights thereunder, on the part of the United States.

## FINANCE DOCKET No. 49.

IN THE MATTER OF THE APPLICATION OF THE  
KANSAS, OKLAHOMA & GULF RAILWAY COMPANY  
FOR AUTHORITY TO ISSUE BONDS, PREFERRED  
STOCK, COMMON STOCK, AND EQUIPMENT-TRUST  
NOTES.

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*Submitted June 16, 1921. Decided July 8, 1921.*

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Authority granted to issue \$203,478.09 of series-B 6 per cent cumulative income bonds. Previous report 65 I. C. C., 672.

*Arthur Miller* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Kansas, Oklahoma & Gulf Railway Company, by a supplemental application filed in this proceeding on June 16, 1921, is seeking authority under section 20a of the interstate commerce act to issue \$203,478.09 of its series-B 6 per cent cumulative income bonds. No objection has been made to the granting of the application.

In our order of January 17, 1921, 65 I. C. C., 672, 677, we authorized the applicant to issue \$82,000 of series-B 6 per cent cumulative bonds under its mortgage of March 1, 1920, to the St. Louis Union Trust Company, for the purpose of taking up, acquiring, or otherwise satisfying or liquidating claims in that amount against the Missouri, Oklahoma & Gulf Railway Company and the Missouri, Oklahoma & Gulf Railroad Company, existing prior to the receivership of the properties of those companies, which the special master has recommended for allowance. Under the plan of adjustment which provided for the acquisition by the applicant of the properties so subject to the receivership, these claims were entitled to a lien or equity prior and paramount to the first-mortgage bonds of either said railway or said railroad company.

Claims of this nature in the aggregate amount of \$203,478.09, in addition to those against which the \$82,000 of series-B bonds were authorized to be issued, have been recommended for allowance by the special master, and the applicant now proposes to issue series-B bonds in the amount of said claims for the purpose of taking up, satisfying, acquiring, or otherwise liquidating them.

The issue of series-B bonds in full settlement of these claims will be in accordance with the plan of adjustment under which the

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applicant acquired the properties involved in the receivership proceedings.

We find that the proposed issue of bonds by the applicant (*a*) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Kansas, Oklahoma & Gulf Railway Company be, and it is hereby, authorized to issue \$203,478.09, principal amount, of its series-B bonds, under and pursuant to and to be secured by its deed of trust dated March 1, 1920, made by the applicant to the St. Louis Union Trust Company, trustee; said bonds to mature January 1, 1949, and to bear interest at the rate of 6 per cent per annum, payable on the 1st day of January in each year (cumulatively) only if and when there are sufficient surplus earnings derived from the operation of the properties of the applicant to pay such interest; said bonds to be used only for the purpose of taking up, acquiring, or otherwise satisfying or liquidating certain claims, aggregating \$203,478.09, against the Missouri, Oklahoma & Gulf Railway Company and the Missouri, Oklahoma & Gulf Railroad Company, which claims existed prior to the receivership and which have been recommended for allowance by the special master in accordance with the provisions of the plan of adjustment adopted by the court having jurisdiction of the receivership proceedings.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant.

*It is further ordered*, That the applicant shall report to this commission all pertinent facts relating to the issue and disposition of said bonds as herein authorized within 30 days thereafter, said report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1271.

IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY  
FOR AUTHORITY TO GUARANTEE BONDS.

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*Submitted July 5, 1921. Decided July 8, 1921.*

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1. Authority granted to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of \$227,000 of first-mortgage gold bonds of the Rock Island, Arkansas & Louisiana Railroad Company.
2. Disposition of the remainder of the application deferred.

*M. L. Bell* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago, Rock Island & Pacific Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act, to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of \$227,000 of first-mortgage gold bonds of the Rock Island, Arkansas & Louisiana Railroad Company, and of \$619,000 of first-mortgage gold bonds of the St. Paul & Kansas City Short Line Railroad Company. No objection has been made to the granting of the application. That portion of the application relating to the assumption of obligation or liability in respect of the proposed bonds of the St. Paul & Kansas City Short Line Railroad Company is reserved pending further investigation.

In *Bonds of Rock Island, Arkansas & Louisiana*, 70 I. C. C., 17, authority was granted the Rock Island, Arkansas & Louisiana Railroad Company to issue and deliver \$227,000 of its first-mortgage 4½ per cent gold bonds to the applicant herein. The applicant is lessee for a term of 999 years from January 31, 1906, of the property of the Rock Island, Arkansas & Louisiana Railroad Company, and owns all of its capital stock, with the exception of directors' qualifying shares. From June 1, 1913, to September 30, 1919, the applicant advanced in excess of \$227,000 for improvements and additions to the lessor's road and the aforesaid authorized issue of bonds is to be used in full pay-

70 I. C. C.



ment of this indebtedness. The mortgage, dated March 1, 1910, under which these bonds are to be issued, provides that all bonds issued thereunder shall be indorsed by the applicant. It is represented that since the lessor company has no credit the applicant's guaranty will result in the creation of a market for the bonds and the obtaining of a better price therefor.

We find that the proposed assumption by the applicant of obligation or liability in respect of the payment of the principal and interest of the bonds of the Rock Island, Arkansas & Louisiana Railroad Company as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to assume obligation or liability as guarantor by indorsement in respect of the payment of the principal and interest of not exceeding \$227,000, principal amount, of first-mortgage 4½ per cent gold bonds of the Rock Island, Arkansas & Louisiana Railroad Company, authority for the issuance of which has been granted by this commission in Finance Docket No. 1255.

*It is further ordered*, That the applicant shall report to this commission, within 10 days thereafter, all pertinent facts relating to the guaranty of said bonds, such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.



## FINANCE DOCKET No. 1317.

## IN THE MATTER OF THE APPLICATION OF THE ARCADE &amp; ATTICA RAILROAD CORPORATION FOR AUTHORITY TO ISSUE A NOTE AND TO ISSUE AND PLEDGE BONDS.

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*Submitted June 8, 1921. Decided July 8, 1921.*

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Authority granted (1) to issue at par as of June 1, 1921, a 3-year 6 per cent promissory note to Paul H. Quinn, in the face amount of \$15,000; and (2) to issue \$15,000, principal amount, of first-mortgage 5 per cent gold bonds, and to pledge said bonds as collateral security for said note.

*John Knight* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Arcade & Attica Railroad Corporation, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to issue a promissory note for \$15,000, face amount; and (2) to issue and pledge as collateral security for that note \$15,000 of its first-mortgage bonds. No objection has been offered to the granting of the application.

The applicant now has four matured notes outstanding bearing interest at 6 per cent per annum. Two of these notes, aggregating \$10,000, were issued to the Citizens Bank of Arcade, and two, aggregating \$5,000, were issued to the Citizens Bank of Attica. Their proceeds were used to pay indebtedness incurred for interchange of freight with other carriers. The purpose of the applicant now is to secure funds with which to pay these obligations.

The proposed note will be issued as of June 1, 1921, to Paul H. Quinn, applicant's president, will bear interest at the rate of 6 per cent per annum, and will mature three years from the date thereof.

The bonds to be pledged as collateral will be issued under the applicant's first mortgage to the Olean Trust Company, trustee, which authorizes the issue of fifty \$1,000 gold coupon bonds, bearing interest at the rate of 5 per cent per annum and maturing serially, one the first year and two each year thereafter, for the purpose of obtaining money to pay for equipment and rehabilitation of the cor-

poration. Bonds to the amount of \$25,000 were reserved under the mortgage, to be issued from time to time for the purpose, among other things, of reimbursing the applicant for, or enabling it to make, expenditures in like amount for additions, improvements, or betterments. The \$15,000 of bonds which are to be pledged are all that remain to be issued of the amount authorized under the mortgage, and authority is asked to issue them to reimburse the applicant for capital expenditures shown by sworn statement, filed by the applicant, to have been made prior to August 31, 1920. These bonds will mature subsequent to the due date of the proposed note.

We find that the issue by the applicant of said promissory note for the purpose indicated, and the issue and pledge as collateral security therefor of said bonds as aforesaid (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are appropriate for and consistent with the proper performance by the applicant of service to the public as a common carrier, and which will not impair its ability to perform that service; and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

#### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Arcade & Attica Railroad Corporation be, and it is hereby, authorized (1) to issue at par, as of June 1, 1921, to the order of Paul H. Quinn, a promissory note for \$15,000, face amount, to bear interest payable annually at the rate of 6 per cent per annum, and to mature three years after date, and to use the proceeds thereof for the payment of four of its matured notes aggregating \$15,000; (2) to issue \$15,000, principal amount, of first-mortgage gold bonds under and pursuant to its first mortgage, dated July 7, 1917, to the Olean Trust Company, trustee, said bonds to bear interest at the rate of 5 per cent per annum, payable annually on August 1, and to mature serially on dates subsequent to the due date of said note; and (3) to pledge said bonds as collateral security for the aforesaid note.

*It is further ordered*, That the bonds herein authorized to be issued and pledged, shall not be sold, pledged, repledged, or otherwise disposed of except as herein authorized.

*It is further ordered*, That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating

to (1) the issue of said note and the issue and pledge of said bonds, and (2) the payment or satisfaction of said note and/or the release of said bonds from pledge; each of said reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said note or bonds, or interest thereon, on the part of the United States.

### SUPPLEMENTAL ORDER.

(July 29, 1921.)

*It appearing*, That, by the commission's order in this proceeding dated July 8, 1921. the Arcade & Attica Railroad Corporation was, among other things, authorized to issue at par, as of June 1, 1921, to the order of Paul H. Quinn, a promissory note for \$15,000, face amount, to bear interest payable annually at the rate of 6 per cent per annum, and to mature three years after date, and to use the proceeds thereof for the payment of four of its matured notes;

*It further appearing*, From the verified application of said corporation, received July 22, 1921, that the said promissory note has not been issued, that no action has been taken by the applicant pursuant to the authority granted in said order, and that the applicant now desires to issue such promissory note, as of the date aforesaid, to the order of the Exchange National Bank of Olean, New York, instead of said Paul H. Quinn:

*It is ordered*, That the first granting paragraph of the order entered in this proceeding on July 8, 1921. authorizing the issue of said note, be, and it is hereby modified by substituting "Exchange National Bank of Olean, N. Y." for "Paul H. Quinn" as the name of the payee of the said promissory note.

*It is further ordered*, That, except as herein modified, said order of July 8, 1921, shall remain in full force and effect.

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## FINANCE DOCKET No. 1434.

IN THE MATTER OF THE APPLICATION OF THE  
CHARLES CITY WESTERN RAILWAY COMPANY FOR  
AUTHORITY TO ISSUE, PLEDGE, AND SELL FIRST-  
MORTGAGE NOTES.

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*Submitted June 15, 1921. Decided July 8, 1921.*

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Authority granted (1) to issue not to exceed \$373,600 of 10-year 6 per cent first-mortgage gold notes, to be dated July 1, 1921, (2) to pledge \$200,000 of these notes, and (3) to sell the remainder at not less than par.

*Ernest Hausberg* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Charles City Western Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue, under date of July 1, 1921, its 10-year 6 per cent first-mortgage gold notes in the aggregate amount of \$384,000, to pledge \$200,000 of these notes as collateral security for a loan of \$140,000 from the United States under section 210 of the transportation act, 1920, and to sell the remainder, \$184,000, at par. No objection has been made to the granting of the application.

The applicant was incorporated under the laws of Iowa in 1910, with an authorized common capital stock of \$300,000, of which there is actually issued and outstanding \$290,400. In 1911, by amendment to its charter, the capital stock was authorized to be increased to \$800,000, the \$500,000 additional stock authorized being 6 per cent preferred. None of the preferred stock is outstanding. The afore-said amendment provides that the preferred stock must be retired at par January 1, 1922.

The applicant owns and operates 23.35 miles of electric railway, located wholly within the State of Iowa. Its balance sheet as of March 31, 1921, shows investment of \$700,631.77 in road and equipment. Under date of March 1, 1915, the applicant executed its first mortgage to the Merchants Loan & Trust Company, trustee, and pursuant thereto issued \$306,000 of 7 per cent gold notes, of which \$240,000 are outstanding and \$66,000 are nominally issued. These notes matured March 1, 1921.

The applicant proposes to make a new first mortgage to the Security Trust & Savings Bank, trustee, to be dated July 1, 1921. This mortgage will authorize the issue of \$1,000,000 of 6 per cent gold notes, to mature July 1, 1931, and it is the purpose of the applicant to issue \$384,000 of these notes for the following purposes:

To be pledged as collateral security for a loan of \$140,000 from the United States under section 210 of the transportation act, 1920, as amended, heretofore certified by us (the loan of \$140,000 to be used to retire a similar amount of first-mortgage notes which matured March 1, 1921)----- \$200, 000

To be sold at par and the proceeds used as follows:

To retire the remaining \$140,000 of present issue of notes, due March 1, 1921 (\$40,000 of these bonds were sold at 50 per cent on January 14, 1921, and by the terms of the loan under section 210 must be repurchased at the price for which they were sold).- 120, 000

To reimburse the treasury for moneys expended on capital account (listed below):

Past-due mortgage lien on Charles City Terminal----- 9, 900

Note given Security Trust & Savings Bank of Charles City in respect of car-trust agreement past due----- 14, 921

Temporary loan made by Security Trust & Savings Bank of Charles City, past due----- 2, 000

Reimbursement of moneys expended from income and from moneys in the treasury----- 37, 179

Total of notes issued----- 384, 000

Under its present capitalization the applicant is authorized by the Iowa Code, section 1611, as amended, to incur a maximum indebtedness of \$16,000 per mile, or a total indebtedness of \$373,600. The amount for which authority is requested, \$384,000, is therefore in excess of the amount thus authorized.

We find that the proposed issue, pledge, and sale of notes in the amount of \$373,600 by the applicant (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereon, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Charles City Western Railway Company be, and it is hereby, authorized (1) to issue not to exceed \$373,600, aggregate face amount, of its first-mortgage gold notes under and pursuant to, and secured by a proposed first mortgage to the Security Trust & Savings Bank, trustee, to be dated July 1, 1921; said notes to bear interest at the rate of 6 per cent per annum, payable semi-annually on January 1 and July 1 in each year, and to mature July 1, 1931; (2) to pledge with the Secretary of the Treasury as collateral security for a loan of \$140,000 under section 210 of the transportation act, 1920, as amended, not to exceed \$200,000, aggregate face amount, of said notes; and (3) to sell at par \$173,600 aggregate face amount of said notes, the proceeds of such sale to be used for the purposes set forth in said report.

*It is further ordered*, That, except as herein authorized, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That within 10 days after the execution of said mortgage, the Charles City Western Railway Company shall file with this commission a verified copy thereof.

*It is further ordered*, That the Charles City Western Railway Company shall report to this commission within 10 days thereafter, respectively, (1) the issue of the first-mortgage notes herein authorized; (2) the pledge of \$200,000 of said notes with the Secretary of the Treasury, as aforesaid; (3) the cancellation of the first-mortgage notes retired or refunded by the aforesaid issue; and (4) the disposition of the proceeds of the remainder of the notes herein authorized; each of said reports to be signed by an executive officer of the applicant having knowledge of the facts, and verified by his oath.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of said notes, or interest thereon.

## FINANCE DOCKET No. 1438.

## IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO GUARANTEE BONDS.

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*Submitted June 20, 1921. Decided July 8, 1921.*

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Authority granted the Southern Pacific Company to assume obligation or liability as guarantor by indorsement in respect of the principal and interest on \$364,000 of first-mortgage 5 per cent bonds of the Houston East & West Texas Railway Company.

*J. P. Blair* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Southern Pacific Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to assume obligation or liability as guarantor in respect of the principal and interest on \$364,000 of first-mortgage 5 per cent bonds of the Houston East & West Texas Railway Company. No objection has been made to the granting of the application.

The applicant owns 99.95 per cent of the stock of the Houston East & West Texas Railway Company, and in the year 1900 entered into an arrangement whereby it agreed to guarantee the principal and interest of the bonds of the latter company, in consideration of the bondholders consenting to the calling of their bonds at 105 and accrued interest. At that time the Houston East & West Texas Railway Company had under consideration the issuing of general 4 per cent bonds and the retiring of the 5 per cent bonds. Since 1900 the applicant has guaranteed \$2,636,000 of the \$3,000,000 of bonds outstanding, and now seeks authority to guarantee the remaining \$364,000 of these bonds when presented for that purpose.

We find that the proposed assumption of obligation or liability by the applicant as guarantor in respect of said bonds (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by the applicant of service



to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Southern Pacific Company be, and it is hereby, authorized to assume obligation or liability as guarantor in respect of the principal and interest on \$364,000, principal amount, of Houston East & West Texas Railway Company's first-mortgage bonds, dated May 1, 1893, maturing May 1, 1933, and bearing interest at the rate of 5 per cent per annum; such guaranty to be indorsed upon said bonds when presented for that purpose.

*It is further ordered*, That the applicant shall, for the period ending June 30, 1921, and for each six months' period thereafter, report to this commission within 30 days after the close of such period, all pertinent facts relating to the assumption of obligation or liability in respect of the payment of the principal and interest of said bonds, as herein authorized; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

FINANCE DOCKET No. 1462.

IN THE MATTER OF THE APPLICATIONS OF THE  
BALTIMORE & OHIO RAILROAD COMPANY FOR AU-  
THORITY TO ISSUE REFUNDING AND GENERAL  
MORTGAGE BONDS AND OF SUBSIDIARY COMPANIES  
FOR AUTHORITY TO ISSUE BONDS.

*Submitted May 31, 1921. Decided July 8, 1921.*

Authority granted:

- 1. To the Baltimore & Ohio Railroad Company to issue not exceeding \$1,624,000 of refunding and general mortgage 6 per cent bonds, series B, for pledge and repledge, from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued by said railroad company under paragraph (9) of section 20a of the interstate commerce act; and
- 2. To subsidiaries of the Baltimore & Ohio Railroad Company to issue various bonds upon the order of said railroad company to the trustees under certain mortgages.

*George M. Shriver* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Baltimore & Ohio Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$1,624,000 of its refunding and general mortgage bonds, series B, for pledge, from time to time, as collateral security for any note or notes that it may issue within the limitations prescribed by paragraph (9) of section 20a of the act, without our authorization having first been obtained.

Nine subsidiary companies of the applicant, herein termed the subsidiaries, have filed intervening applications in this proceeding for authority to issue certain bonds, in amounts as follows:

Schuylkill River East Side Railroad Company	\$8, 500
Baltimore & Ohio Railroad Company in Pennsylvania	30, 500
Fairmont, Morgantown & Pittsburg Railroad Company	14, 500
Wheeling, Pittsburgh & Baltimore Railroad Company	19, 000
Washington County Railroad Company	2, 000
Pittsburg & Western Railroad Company	22, 000
Baltimore & Ohio & Chicago Railroad Company (Ohio and Indiana)	31, 500
Baltimore & Ohio Southwestern Railroad Company	671. 000
Pittsburgh Junction Railroad Company	128, 500

And the applicant likewise seeks authority, on behalf of the subsidiaries, for the issue of these bonds. No objection has been made to the granting of the applications.

The applicant controls the subsidiaries through stock ownership. Its refunding and general mortgage dated December 1, 1915, made to the Central Trust Company of New York (now the Central Union Trust Company) and James N. Wallace, trustees, provides that whenever bonds shall be issued against expenditures made for the extension and improvement of the railroads and property of any of its subsidiaries it shall require the execution and delivery to it of mortgage bonds of such subsidiaries "to a principal amount at least equal to the amount of such expenditures, provided, however, that whenever any mortgage prior in lien to this indenture shall so require, such bonds shall be pledged with the trustee under such prior mortgage, and, subject to such pledge, be assigned to the trustee hereunder."

The various mortgages under which the subsidiaries propose to issue bonds are substantially uniform in their tenor and provide for the issuance thereunder of bonds covering expenditures for extensions and improvements to their properties. The mortgages further provide for the delivery of all bonds issued thereunder for extensions and improvements to the appropriate trustees under certain of the applicant's mortgages which are prior in lien to its refunding and general mortgage of December 1, 1915, during the life of such prior-lien mortgages. and after their release, then for delivery to the trustee under the refunding and general mortgage of December 1, 1915.

The applicant represents that from January 1, 1921, to April 30, 1921, it expended \$927,500 for extensions and improvements to the lines of its subsidiaries, in which statement the subsidiaries concur, and \$696,500 for extensions and improvements to its own property, and that it has not hitherto been reimbursed for any part of these expenditures. The applicant and the subsidiaries accordingly propose that the latter issue bonds covering the expenditures made in their behalf and to dispose of them in the manner provided in their respective mortgages and that the applicant issue \$1,624,000 of refunding and general mortgage bonds in respect of the expenditures made both on its own property and on the property of its subsidiaries, for pledge as collateral security for short-term notes.

Authority for these issues is sought at this time in order that the bonds may be held in the company's treasury available for use as occasion may require.

We find that the proposed issues of bonds by the applicant and by the subsidiaries (a) are for lawful objects within their corporate

purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That, for the purposes stated in said report, the Baltimore & Ohio Railroad Company be, and it is hereby, authorized to issue \$1,624,000, principal amount, of refunding and general mortgage gold bonds, series B, under and pursuant to, and to be secured by, the refunding and general mortgage dated December 1, 1915, made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York) and James N. Wallace, for pledge and repledge, from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued by said applicant within the limitations prescribed by paragraph (9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained; said bonds to bear interest at the rate of 6 per cent per annum payable semiannually on February 1 and August 1 in each year, and to mature December 1, 1995; such pledge or pledges to be in the ratio of not exceeding \$125 of bonds in value at their prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is ordered*, That the Schuylkill River East Side Railroad Company be, and it is hereby, authorized to issue \$8,500, principal amount, of refunding and general mortgage bonds, under and pursuant to, and to be secured by, the refunding and general mortgage dated December 10, 1915, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year, and to mature December 1, 1965; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered*, That the Baltimore & Ohio Railroad Company in Pennsylvania be, and it is hereby, authorized to issue \$30,500, principal amount, of improvement-mortgage bonds under and pursuant

to, and to be secured by, the improvement mortgage dated December 1, 1916, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year, and to mature December 1, 1995; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Wheeling, Pittsburgh & Baltimore Railroad Company be, and it is hereby, authorized to issue \$19,000, principal amount, of refunding and general mortgage bonds under and pursuant to, and to be secured by, the refunding and general mortgage dated March 1, 1915, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature March 1, 1965; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Washington County Railroad Company be, and it is hereby, authorized to issue \$2,000, principal amount, of refunding and general mortgage bonds under and pursuant to, and to be secured by, the refunding and general mortgage dated February 1, 1917, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year, and to mature December 1, 1995; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Fairmont, Morgantown & Pittsburg Railroad Company be, and it is hereby, authorized to issue \$14,500, principal amount, of refunding and general mortgage bonds under and pursuant to, and to be secured by, the refunding and general mortgage, dated March 1, 1915, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature March 1, 1965; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Pittsburg & Western Railroad Company be, and it is hereby, authorized to issue \$22,000, principal amount, of refunding and general mortgage bonds under and pursuant to, and to be secured by, the refunding and general mortgage dated March 1, 1915, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature March 1, 1965; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Pittsburgh Junction Railroad Company be, and it is hereby, authorized to issue \$128,500, principal amount, of refunding and general mortgage bonds under and pursuant to, and to be secured by, the refunding and general mortgage dated March 1, 1915, made by that company to the Maryland Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature March 1, 1965; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Baltimore & Ohio & Chicago Railroad Company be, and it is hereby, authorized to issue \$31,500, principal amount, of refunding and general mortgage bonds under and pursuant to, and to be secured by the refunding and general mortgage dated December 1, 1916, made by that company to the Girard Trust Company and William N. Ely; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year, and to mature December 1, 1995; said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is ordered,* That the Baltimore & Ohio Southwestern Railroad Company be, and it is hereby, authorized to issue (1) \$336,000, principal amount, of improvement-mortgage bonds under and pursuant to, and to be secured by, the improvement mortgage dated May 1, 1917, made by that company to the Girard Trust Company and William N. Ely; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on May 1 and November 1 in each year, and to mature December 1, 1995; and (2) \$335,000, principal amount, of improvement-mortgage bonds under and pursuant to, and to be secured by, the improvement mortgage (Illinois) dated June 1, 1921, made by the Baltimore & Ohio Southwestern Railroad Company to the Girard Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on May 1 and November 1 in each year, and to mature December 1, 1995; all of said bonds to be delivered to the trustees under certain mortgages as set forth in the application.

*It is further ordered,* That said Baltimore & Ohio Southwestern Railroad Company shall file with this commission within 10 days after the execution of said improvement mortgage (Illinois) dated June 1, 1921, a verified copy thereof in the form in which executed.

*It is further ordered,* That, except as herein authorized, said bonds shall not be issued, pledged, repledged, or otherwise disposed of by the applicant or by the subsidiaries, unless and until so authorized by this commission.

*It is further ordered*, That the Baltimore & Ohio Railroad Company (1) shall report to this commission all pertinent facts pertaining to the authentication and delivery to it of said refunding and general mortgage bonds, series B, within 10 days thereafter; (2) within 10 days after the pledge or repledge of any of said bonds as herein authorized, shall file certificates of notification to that effect; and (3) within 10 days after the release of said bonds from such pledge, shall report all pertinent facts relating thereto; such reports to be signed and verified by an executive officer having knowledge of the facts.

*It is further ordered*, That each of the subsidiaries shall report to this commission, within 10 days thereafter, all pertinent facts relating to the issue of bonds as herein authorized, such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds of the applicant and of the subsidiaries, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 1113.

IN THE MATTER OF THE APPLICATION OF THE  
TENNESSEE & NORTH CAROLINA RAILWAY COMPANY  
FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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*Submitted June 20, 1921. Decided July 9, 1921.*

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Authority granted to issue \$250,000 of common capital stock in payment for certain railroad property.

*John Franklin Shields* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Tennessee & North Carolina Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue 2,500 shares of its common capital stock, aggregating \$250,000, par value, in payment for the railroad property formerly owned and operated by the Tennessee & North Carolina Railroad Company, hereinafter called the railroad company. No objection has been offered to the granting of the application.

The property in question, extending from Newport, Tenn., to Waterville, N. C., a distance of 19.5 miles, was mortgaged by the railroad company to secure an issue of bonds, of which \$454,000 were outstanding when the railroad company defaulted. Proceedings were instituted in the United States District Court for the Western District of North Carolina for the purpose of foreclosure, and resulted in the appointment of a receiver who operated the property for some time. A decree of sale having been secured, the property was sold on June 7, 1920, to A. J. Stevens, representing the bondholders. He thereupon organized a corporation under the laws of Tennessee to hold and operate the portion of the property in that State, and a corporation under the laws of North Carolina to hold and operate the portion thereof in North Carolina. These companies almost immediately consolidated, forming the applicant.

Stock to the amount of \$200,000 was to have been issued by the Tennessee company, and to the amount of \$50,000 by the North Car-

70 I. C. C.

olina company, in payment for their respective portions of the property; and the stock so issued was to have been exchanged for stock of the applicant par for par. No stock has been issued by the Tennessee company, by the North Carolina company, or by the applicant.

All of the property has been transferred to the applicant. It has an authorized capital stock of \$250,000, consisting of 2,500 shares of the par value of \$100. It now proposes to issue to A. J. Stevens and his nominees, in payment for the property and in lieu of the stock of the constituent companies, its entire authorized capital stock.

The general balance sheet as of December 31, 1920, shows a book investment in road and equipment of \$601,681.83. In addition to the \$454,000 of bonds above mentioned, the railroad company had outstanding \$306,100 of stock, making a total capitalization of \$760,100; and the interest on these bonds amounted to \$22,700 annually. The proposed capitalization is less than one-third of that of the railroad company and under the new plan there will be no fixed interest charges.

We find that the proposed issue of capital stock by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Tennessee & North Carolina Railway Company be, and it is hereby, authorized to issue 2,500 shares of common capital stock of the par value of \$100; the shares so issued to be represented by certificates in the form submitted with the application; such stock to be used at par in payment for the property formerly owned by the Tennessee & North Carolina Railroad Company referred to in said report.

*It is further ordered*, That none of said shares shall be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, in any manner or for any purpose, except as herein authorized.

*It is further ordered,* That the applicant shall report to this commission all pertinent facts relating to the issue of said stock within 10 days thereafter; said report to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1456.

IN THE MATTER OF THE APPLICATION OF THE OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY AND OF THE UNION PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ASSUME LIABILITY IN RESPECT OF BONDS.

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*Submitted June 22, 1921. Decided July 9, 1921.*

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Authority granted (1) to the Oregon-Washington Railroad & Navigation Company to assume additional liability, for a consideration, by the modification of the tax covenant therein, upon \$14,755,500 of its outstanding first and refunding mortgage 4 per cent series-A bonds; and (2) to the Union Pacific Railroad Company to assume obligation or liability in respect of said bonds by guaranteeing by indorsement the payment of principal and interest thereon.

*Henry W. Clark* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Oregon-Washington Railroad & Navigation Company, herein termed the subsidiary company, and the Union Pacific Railroad Company, herein termed the proprietary company, common carriers by railroad engaged in interstate commerce, have duly made joint application for authority under section 20a of the interstate commerce commission act (a) in behalf of the former, to modify, for a consideration, the tax provision in \$14,755,500 of its first and refunding mortgage 4 per cent bonds owned by the latter, and, (b) in behalf of the latter, to assume obligation or liability in respect of said bonds by guaranteeing the payment of principal and interest thereon. No objection has been made to the granting of the application.

The entire capital stock of the subsidiary company, except 15 shares qualifying directors, is owned by the Oregon Short Line Railroad Company; and the entire capital stock of the latter is owned by the proprietary company.

The subsidiary company's first and refunding mortgage to the Farmers Loan & Trust Company, dated January 3, 1911, provides for the issue of bonds bearing interest at 4 per cent per annum, payable semiannually on January 1 and July 1 of each year, and ma-

turing January 1, 1961. As written, the mortgage and the bonds issuable thereunder contained a covenant that:

Both the principal and the interest \* \* \* shall be paid without deduction for any tax or taxes which the Railroad Company may be required to pay thereon, or to retain therefrom, under any present or future law of the United States of America, or of any state, territory, county, or municipality therein.

Series-A bonds to the amount of \$37,501,500 containing this provision have been issued and are in the hands of the public. In 1914, however, the subsidiary company issued \$14,755,500 of bonds under the mortgage and a supplemental indenture with a provision excepting Federal income taxes from the operation of the tax covenant, and sold them to the proprietary company. It is now desired to change the text of these bonds to conform to the original mortgage and the bonds previously issued and held by the public, by eliminating the exception mentioned. The proprietary company has agreed to substantially reimburse the subsidiary company for the increased tax liability resulting from such modification.

All of the bonds now held by the public have been guaranteed by indorsement by the proprietary company as to payment of the principal and interest, pursuant to an agreement executed June 9, 1911, between it and the trustee under the subsidiary company's first and refunding mortgage. This agreement prescribes the text of such guaranty and defines the liability thereunder. The bonds here involved do not bear such indorsement. The proprietary company now proposes to indorse its guaranty on these bonds and to place them in circulation by delivery to William A. Clark in the performance of an agreement whereby it will acquire his interest in the outstanding capital stock and first-mortgage 4 per cent bonds of the Los Angeles & Salt Lake Railroad Company, approximately one-half of which it already owns, and thus perfect control of that company. The bonds are secured mainly by a lien subordinate to prior mortgages, and the record shows that without the guaranty of the proprietary company they could be disposed of only at a sacrifice.

We find that the assumption of additional liability by the subsidiary company by the proposed modification of the tax covenant in said \$14,755,500 of bonds and the proposed assumption of obligation or liability in respect of said bonds and interest by the proprietary company (a) are for lawful objects within the respective corporate purposes of the applicants, and compatible with the public interest, which are consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

## ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Oregon-Washington Railroad and Navigation Company be, and it is hereby, authorized to assume additional liability upon \$14,755,500, principal amount, of its first and refunding mortgage 4 per cent series-A bonds now held and owned by the Union Pacific Railroad Company, by agreeing to pay Federal income taxes which may become due on account of the interest payable thereon, in accordance with the original intent and purpose of its first and refunding mortgage made January 3, 1911, to the Farmers Loan & Trust Company, trustee; upon condition, however, that the Union Pacific Railroad Company shall substantially reimburse the Oregon-Washington Railroad & Navigation Company for its assumption of such additional liability.

*It is further ordered*, That the Union Pacific Railroad Company be, and it is hereby, authorized to assume obligation or liability in respect of said bonds, by the indorsement of its guaranty of the payment of principal and interest thereon in the form set forth in an agreement between it and the Farmers Loan & Trust Company dated June 9, 1911.

*It is further ordered*, That the respective applicants shall within 10 days thereafter report to this commission all pertinent facts relating to the modification, guaranty, and disposition of the bonds or any part thereof, such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein contained shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1386.

## IN THE MATTER OF THE APPLICATION OF THE DENVER &amp; RIO GRANDE WESTERN RAILROAD COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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*Submitted May 13, 1921. Decided July 11, 1921.*

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1. Authority granted to issue 300,000 shares of common capital stock without nominal or par value.
2. Proposed acquisition of all the outstanding capital stock of the applicant by the Western Pacific Railroad Corporation held not to be within the scope of paragraph (2) or paragraph (6) of section 5 of the act.
3. Proposed acquisition and operation by applicant of the lines of railroad of the Denver & Rio Grande Railroad Company held not to be within the scope of paragraph (18) of section 1 of the act.

*John F. Bowie and F. W. M. Cutcheon for applicant.*

*J. L. Webster, A. M. Wickwire, and George N. Brown for protective committee of the stockholders of the Denver & Rio Grande Railroad Company, interveners.*

## REPORT OF THE COMMISSION.

## BY THE COMMISSION:

The Denver & Rio Grande Western Railroad Company, a Delaware corporation, organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of the act, to issue 300,000 shares of its common capital stock without nominal or par value.

A joint hearing was held on April 25, 1921, upon this application and upon the application of the Western Pacific Railroad Company, *Bonds of Western Pacific R. R.*, 67 I. C. C., 655, for authority to issue certain bonds. No objection to the granting of the application has been offered by any authority of any State in which the applicant proposes to operate.

The protective committee of the stockholders of the Denver & Rio Grande Railroad Company, hereinafter referred to as the old Denver company, appeared at the hearing for the purpose of noting on the record the facts with respect to certain litigation pending in the District Court of the United States for the District of Colorado between certain of the stockholders, as parties plaintiff, and the applicant and others, as parties defendant; and also for the purpose of objecting to our entertaining jurisdiction of the application unless



and until applicant complies with the provisions of paragraph (18) of section 1 and paragraph (6) of section 5 of the interstate commerce act.

The old Denver company is a consolidated corporation which has succeeded to the property, franchises, and liabilities of a former company of the same name and of the Rio Grande Western Railway Company. The two predecessor companies, by contract dated June 23, 1905, in practical effect guaranteed payment of principal and interest of certain first-mortgage 5 per cent 30-year gold bonds of the Western Pacific Railway Company, hereinafter referred to as the old Western Pacific company. The last-mentioned company defaulted in the payment of interest due March 1, 1915, on the bonds, whereupon the first mortgage was foreclosed and the property of the company was sold for \$18,000,000 to representatives of the holders of a large amount of the bonds. The Western Pacific Railroad Company was then organized by such bondholders to take over and operate the property purchased. The Western Pacific Railroad Corporation, hereinafter referred to as the holding company, was also organized by the same bondholders, and all of the capital stock of the operating company, except a few qualifying shares held by its directors, was acquired by the holding company.

After the application of the \$18,000,000 received from the sale of the property of the old Western Pacific company, there still remained unpaid upon the bonds of the company the sum of \$38,270,343.17. The Equitable Trust Company of New York, the trustee under the first mortgage, obtained a judgment for this amount on June 14, 1917, against the old Denver company based upon the guaranty contained in the contract of June 23, 1905, and thereafter a receiver was appointed for such company. As a result of various proceedings considerable amounts were realized from the sale of certain free assets of the old Denver company which were applied upon the judgment debt and interest. The balance remaining unpaid thereon amounted on September 25, 1920, to \$36,192,655.78. The District Court of the United States for the District of Colorado on that date directed the sale of the remaining property of the old Denver company for the purpose of satisfying the last-mentioned amount. Such sale took place at Denver on November 20, 1920, and the property was purchased for approximately \$5,000,000 by John F. Bowie, John B. Marsh, and Ralph M. Arkush, hereinafter referred to as the purchasers, who acted on behalf of the holding company, which in turn represented the interest of approximately 95 per cent of the bondholders of the old Western Pacific company. The sale was confirmed on March 28, 1921, and will be consummated as soon as possible after we have authorized the proposed issue of securities.

The applicant has been organized by the holding company to take over practically all of the property of the old Denver company. The purchasers of the property have agreed with applicant by contract dated April 4, 1921, to cause title therein to be vested in the applicant, and as the principal consideration therefor, applicant will issue the 300,000 shares of its common capital stock without nominal or par value, authority for the issuance of which is asked herein. Such stock will be acquired by the holding company, which has been represented in the transaction by the purchasers, and will be retained by such company for the purpose of maintaining control of the applicant.

It appears that the property has been sold subject to the lien of all existing mortgages thereon, but that as a result of the sale the property will be relieved of liability for the balance remaining unpaid on the judgment of the Equitable Trust Company of New York, amounting to \$35,224,493.10. The outstanding capital stock of the old Denver company is \$49,775,670, par value, preferred, and \$38,000,000, par value, common. The applicant for the present will have outstanding only the proposed issue of 300,000 shares of its common stock without nominal or par value. The total authorized capital stock of the applicant, however, is 500,000 shares of the par value of \$100 of preferred stock and 1,000,000 shares of common stock without nominal or par value. The property will be acquired by the applicant subject to the following outstanding funded debt:

First consolidated mortgage, Denver & Rio Grande Railroad Company, 4 per cent bonds.....	\$34, 125, 000
First consolidated mortgage, Denver & Rio Grande Railroad Company, 4½ per cent bonds.....	6, 382, 000
Improvement mortgage, Denver & Rio Grande Railroad Company, 5 per cent bonds.....	8, 335, 000
First consolidated mortgage, Rio Grande Western Railway Company, 4 per cent bonds.....	15, 080, 000
First trust mortgage, Rio Grande Western Railroad Company, 4 per cent bonds.....	15, 190, 000
First and refunding mortgage, Denver & Rio Grande Railroad Company, 5 per cent bonds.....	32, 063, 500
Adjustment mortgage, Denver & Rio Grande Railroad Company, 7 per cent bonds.....	10, 000, 000
Total.....	121, 175, 500

The \$32,063,500 of first and refunding mortgage bonds and the \$10,000,000 of adjustment-mortgage bonds referred to in the last two items of the foregoing list are now in default by reason of the fact that part of the collateral pledged to secure them consisted of \$25,000,000 of second-mortgage bonds of the old Western Pacific company, the value of which was destroyed by the foreclosure of the first mortgage above mentioned.

Negotiations are now in progress between the holding company and the holders of the refunding bonds and the adjustment bonds, which contemplate the retirement thereof through foreclosure and the substitution therefor, if all of the bondholders consent, of \$25,750,000 of 7 per cent the preferred stock of the applicant and \$15,750,000 of 5 per cent bonds secured by a junior lien on applicant's property. If the proposed substitution is effected, the fixed charges upon the property will be reduced approximately \$1,500,000 per annum. The testimony shows that it is desirable to terminate the present receivership, although the future of the applicant will remain uncertain until some agreement has been reached with the holders of the bonds.

It appears that the applicant is in need of new equipment and of betterments to its way and structures. The holding company proposes to finance these requirements to the extent of \$12,000,000, for which it is proposed ultimately to issue to the holding company an additional 120,000 shares of applicant's common stock without nominal or par value. Pending an agreement with the holders of the refunding bonds and adjustment bonds, however, the holding company will make advances only where they can be adequately secured.

Applicant states in the application that it is unable to assign a cash value at this time to the property to be acquired by it.

The holding company is neither a carrier subject to the act nor organized to engage in transportation subject to the act.

Referring to the objections made by the stockholders' committee of the old Denver company, we are of the opinion that the proposed acquisition and operation by the applicant of the properties of the old Denver company are not within the scope of paragraph (18) of section 1 of the act because such property was in existence and was operated in interstate commerce prior to the effective date of that paragraph. We are further of the opinion that the proposed acquisition of applicant's stock by the holding company does not constitute a consolidation of the property of two or more carriers by railroad subject to the act into one corporation for the ownership, management, and operation of properties theretofore in separate ownership, management, and operation within the meaning of paragraph (6) of section 5 of the act. The testimony shows that although the holding company will by stock ownership control both the applicant and the Western Pacific Railroad Company, the properties of the operating companies will be separately owned, managed, and operated.

Inasmuch as the holding company is not a carrier engaged in the transportation of passengers or property subject to the act, the acquisition of the control of the applicant by the holding company is not within the scope of paragraph (2) of section 5.

It appears that the stockholders of the old Denver company have been represented at various stages in the proceedings against such company, and have sought unsuccessfully to prevent the sale of its property and the confirmation of such sale. The testimony shows that the only proceeding now pending in their behalf is based upon an independent bill in equity brought in the District Court of the United States for the District of Colorado by certain of the stockholders against the Equitable Trust Company of New York and others, including the applicant, praying for an injunction against the further enforcement of the judgment obtained by the trust company against the old Denver company and asking for other appropriate relief. Since the applicant is a party to this action and will be bound by any judgment or decree rendered therein, our approval of the proposed issue of stock and the resultant acquisition of the property of the old Denver company by the applicant will not interfere with the prosecution of any remedy to which the stockholders may be entitled by reason of such action. The orders directing and confirming the sale were made by the court having jurisdiction of the property. Upon this point the interveners have raised no question. The judgment of a court of competent jurisdiction can not be made the subject of collateral attack before us in a proceeding of this character.

The propriety of many of the transactions between the old Denver company and the old Western Pacific company has been questioned. With a view to making a comprehensive report upon such transactions, and to the making of such orders as may be proper with respect to the issuance of securities by, and the accounts and practices of the companies concerned, we have by our order of July 11, 1921, *In re accounts, financial operations, and practices of Western Pacific Railway Company and others*, No. 12922, instituted a general investigation into the history, financial operations, accounts, and practices of the old Western Pacific company, the old Denver company, the Western Pacific Railroad Company, and the applicant, and their respective relations with one another. Pending such investigation, we express no opinion with respect to such transactions, and nothing herein contained shall be construed as approval by us of any of the acts of the old companies or of their officers and directors.

Since the hearing upon the present application, counsel for the interveners has requested us informally to institute a further investigation in this proceeding into the reasons for transferring title in the property of the old Denver company, which is located in the States of Colorado, Utah, and New Mexico, to a corporation organized under the laws of Delaware. The States first mentioned have made no representations to us upon the subject, although their re-

spective governors have received notice of the application and copies thereof as required by law. The record shows that the applicant has been lawfully organized in the State of its creation, and that the proposed issue of securities is for a lawful purpose within its corporate powers. Under the circumstances, the situs of the corporate organization is immaterial, and further investigation of the subject unnecessary for present purposes.

We find that the proposed issue and sale of common capital stock without nominal or par value (*a*) are for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

McCHORD, *Commissioner*, concurring:

I concur in the majority report, except that I am of opinion that the holding company is subject to the provisions of paragraph (2) of section 5 of the interstate commerce act.

EASTMAN, *Commissioner*, dissenting:

After noting that the "propriety of many of the transactions between the old Denver company and the old Western Pacific company has been questioned," the majority announce that the commission has instituted an investigation. Apparently these transactions have been considered by the courts without finding of impropriety, but I take it that the investigation has not been instituted idly or without substantial reason to fear that there have been questionable practices. It appears, however, that if there have been transactions of this character, the bondholders of the old Western Pacific have been beneficiaries. It is these bondholders who organized and own the holding company, and through that company they have organized and are to control the applicant. I am not disposed to question the desirability of an investigation, but if one is justified, surely it is better that the Denver property should remain in the hands of a receiver appointed by the court, pending the results of the investigation, rather than pass into the possession of a company organized in behalf of the bondholders who have been so intimately associated with the matters under inquiry. Nor would it be impracticable for the receiver to procure such funds as may be necessary to preserve the integrity and efficiency of the property.

Even if this reason for withholding approval did not exist, there are other compelling reasons. Applicant proposes to issue 300,000



shares of stock for property which is subject to outstanding debts totaling \$121,175,500. Not all the property of the old Denver company is to be acquired which it had when these debts were incurred, and upon such evidence as the record affords it is doubtful whether the earning power of the applicant will be sufficient to meet the interest charges. In supervising the issue of securities by a newly organized railroad corporation, it will, I think, be conceded that we ought not to permit the company to begin its career with a burden of fixed charges which it can not carry or with too narrow a margin for the stockholders' interest. In this case it is yet to be shown that the equity which will be represented by the new shares of stock has substantial value, or that the company can support the debt to which the property is subject.

I am further persuaded that the acquisition by the holding company of the stock of applicant is subject to the provisions of paragraph (2) of section 5 of the interstate commerce act. That paragraph authorizes us to approve the acquisition by one carrier of the control of any other carrier "either under a lease or by the purchase of stock *or in any other manner* not involving the consolidation of such carriers into a single system for ownership and operation." The words "in any other manner" are very broad. The holding company completely controls the Western Pacific. It now proposes to control the Denver & Rio Grande as completely. To hold that such a transaction is not covered by paragraph (2) is to regard form rather than substance and open the door to evasions wholly nullifying the intent and purpose of this provision of the act. See *United States v. Reading Co.*, 253 U. S., 26, 60-61.

COMMISSIONER CAMPBELL authorizes me to say that he concurs in these views.

### ORDER.

Hearings in this proceeding and investigation of the matters and things involved therein having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Denver & Rio Grande Western Railroad Company be, and it is hereby, authorized to issue and deliver 300,000 shares of its common capital stock, without nominal or par value, to or upon the order of John F. Bowie, John B. Marsh, and Ralph M. Arkush, hereinafter referred to as the purchasers, as part consideration for the transfer by the purchasers to said company of certain property formerly owned or held by the Denver & Rio Grande Railroad Company, or its receiver, more particularly men-

tioned and described in a certain agreement made the 4th day of April, 1921, by and between the applicant and said purchasers, a copy of which was filed with the application, but only upon the terms and conditions prescribed by said agreement; the proceeds of such stock to be used solely for the purposes set forth in the application; the certificates representing the stock to be substantially in the form submitted with the application.

*It is further ordered*, That the values to be assigned to said property in the accounts of the applicant shall not exceed the values at which such property is carried in the accounts of the Denver & Rio Grande Railroad Company, or its receiver, provided, however, that such values shall be increased or decreased as we may hereafter direct by supplemental order herein.

*It is further ordered*, That said stock shall not be sold, pledged, repledged, used, or otherwise disposed of by the applicant in any manner or for any purpose, except as herein authorized.

*It is further ordered*, That the applicant within 10 days after said issue shall report to this commission all pertinent facts relating to (1) the issue and delivery of said stock, as herein authorized, and (2) the application of the proceeds realized from said issue, including the amount or amounts charged or credited to each account, such report to be in writing, signed by an executive officer having knowledge of the facts, and verified by his oath.

*And it is further ordered*, That nothing herein contained shall be construed to imply any guaranty or obligation as to said capital stock, or dividends thereon, on the part of the United States.

70 I. C. C.



## FINANCE DOCKET No. 9.

## IN THE MATTER OF THE APPLICATION OF THE JACKSON &amp; EASTERN RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted June 1, 1921. Decided July 12, 1921.*

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1. Certificate issued authorizing the construction of a line of railroad from Sebastopol to Jackson, Miss.
2. Permission granted to retain excess earnings of such extension for a period of 10 years.

*George B. Neville* for applicant.

## REPORT OF THE COMMISSION.

## BY THE COMMISSION:

The Jackson & Eastern Railway Company, a carrier by railroad subject to the interstate commerce act, on June 10, 1920, filed an application for a certificate that the present and future public convenience and necessity require or will require the construction of an extension of its line of railroad from Sebastopol, Scott County, to Jackson, Hinds County, all in the State of Mississippi. Two hearings were held for us by the Mississippi Railroad Commission, which, following each hearing, recommended that the application be granted. The project also has the indorsement of the governor and the members of both branches of Congress of that State.

In 1911 and 1912, the president of the applicant built the Meridian & Memphis Railroad, extending from Meridian to Union, a distance of 32.6 miles. At that time the intention was to build a line in a northwesterly direction from Meridian to a point of connection with the Illinois Central Railroad some distance north of Jackson. The Meridian & Memphis Railroad was operated as an independent line until January, 1917, when it was sold to the Gulf, Mobile & Northern. In the meantime, and during 1914 and 1915, the president of the applicant built a line from Union to Sebastopol, a distance of 13.89 miles. In January, 1916, the applicant was incorporated under the laws of Mississippi and apparently took title to this piece of track which it now operates. No construction work has been done by the applicant since its incorporation. The existing line connects at Union with the Gulf, Mobile & Northern, hereinafter termed the Gulf, and with the Meridian & Memphis Railroad above referred to.

The applicant states that connection will be made at Jackson with the Illinois Central Railroad, Gulf & Ship Island Railroad, New Orleans Great Northern Railroad, Alabama & Vicksburg Railway, hereinafter called the Central, the Ship Island, the Great Northern, and the Vicksburg, respectively, and the Yazoo & Mississippi Valley Railway. Scott and Rankin Counties, through which the proposed line would extend, are crossed from east to west by the Vicksburg, but Leake County is not now served by any existing line. The proposed line, leaving Jackson and for the greater part of its length paralleling Pearl River, would bisect the angle between the Central and the Vicksburg lines. The average distance between the route as laid out and the Vicksburg line is about 15 miles. The territory which is naturally tributary to the proposed line consists of 278 square miles in Rankin County, 237 square miles in Scott County, and 432 square miles in Leake County, or a total of 947 square miles. The proposed line would be approximately 61 miles in length.

The applicant's plans contemplate that a large part, if not all, of the necessary rights of way will be donated by local parties, and that it will receive substantial assistance from civic bodies at Jackson in the way of terminals and possibly a cash contribution. It is proposed to establish connections with the Gulf at Union for the handling of through traffic to the north and south. The mileage between Meridian and Jackson over the Vicksburg, however, is considerably shorter than the route formed by the applicant's line and the Meridian & Memphis Railroad. Similarly, the distance from Jackson to Ackerman via the Central is much shorter than the proposed route over the applicant's line to Union and thence over the Gulf to Ackerman. The advantage of the proposed line, considered as a connecting link between existing lines, is said to arise from the fact that the Great Northern, extending from New Orleans, ends at Jackson, Miss., and has no outlet to the north. Its tonnage must therefore be delivered to some connecting line at Jackson, whereas other lines extending north have their own rails into New Orleans and the Great Northern does not now obtain an equal share of the traffic. The same is said to be true to a certain extent of the Ship Island route. It is not apparent, however, that any actual saving in length of haul can be obtained by means of the proposed line as a connecting link for other routes.

The evidence is to the effect that the territory is heavily timbered but can not develop agriculturally until the land has been cleared; that the farmers and the owners of the land are reluctant to destroy the timber, as has been done to some extent in the past, for the sole purpose of clearing additional acreage; that such crops as are raised must now be transported by wagon to the Vicksburg

or to the Gulf, over dirt roads which are badly overflowed during periods of heavy rainfall and are practically impassable during a great part of the year; and that the distance to any existing railroad acts as a deterrent to the planting of crops. The greater part of the land is owned by individuals, principally farmers, but there are a number of tracts owned by various syndicates, one of which operates a logging road from its holdings to a connection with the Vicksburg, a short distance east of Jackson. It is pointed out that the building of the proposed line would furnish an outlet for the timber and that, when the land has thus been cleared, the agricultural possibilities of the region are practically unlimited. The applicant presents proof tending to show the quantities of standing timber available for manufacture along the line, the acreage of cultivated, grazing, and timber land accessible to the line, and considering only that territory which is as near or nearer the proposed line than to the present route of the Vicksburg. The timber estimates are taken from the assessment rolls in the several counties, and it is pointed out that the stand of timber as returned for assessment by the owners is usually estimated at a very conservative figure. The applicant suggests that such estimates should be multiplied by three in order to ascertain the actual amount of timber available.

It is estimated by the applicant that there are approximately 425,000,000 feet of timber in the territory to be served.

The demand for railroad facilities from the inhabitants of the territory in question is very insistent, and the utmost confidence is expressed that the building of the line will bring about extensive lumbering operations and that these will be closely followed by agricultural development producing a constantly increasing tonnage. The estimates of the time necessary to manufacture the available timber vary from 20 to 30 years. It appears that a large area of this timber is owned by the Gammill Lumber Company, which operates a logging road from Canton easterly to the Pearl River and up the river toward Carthage, a distance of 15 miles, and a second logging road extending from Pelahatchie on the Vicksburg, 27 miles east of Jackson. This company has filed with us a protest against the granting of the application.

The cost of construction of the proposed line, assuming the use of 60-pound relay steel rail, is estimated by the applicant at \$860,000, or about \$15,000 per mile. It is obvious that this estimate is low, even if the donations of all rights of way be assumed. Net revenues are estimated by the applicant at \$105,000 for the first year, \$140,000 for the second year, and \$175,000 per annum for the remaining three years of the five-year period. The operating ratio assumed by the

applicant is taken at 65 per cent. On the 13.89 miles of line which has been in operation since 1916, the applicant's books show a net corporate income for the three-year period of about \$45,000, without taking into account increased rates effective September 1, 1920.

The applicant's financing plan contemplates that construction of the line will be financed by its president, who will be reimbursed by the issue of 6 per cent bonds to be hereafter issued. Such bonds would in turn be sold by him for such prices as he could obtain.

The record as a whole fails to afford reasonable assurance that the project will become a permanently successful enterprise. However, since local interests are ready and willing to assume the burden with full knowledge of what the future may hold for the enterprise, it seems proper that they should be permitted to do so. But in view of the uncertain future of the road, we do not think it would be proper for us to sanction at this time the issuance of bonds to finance its construction. The applicant has filed with us its application under section 210 of the transportation act, 1920, for a loan, the proceeds of which would, in part, be used to finance the proposed construction. In the light of the record we do not think that the enterprise is one which should be financed by the Federal Government.

We find that the present and future public convenience and necessity require or will require the construction of the extension proposed in the application upon the condition above stated. A certificate to that effect will accordingly be issued. We further find that because of the probable cost of construction and the uncertainty of adequate return during the early years of operation, the applicant should be permitted to retain, for a period of not more than 10 years, all of its earnings derived from such extension, in so far as the same are capable of being segregated from the earnings of the applicant's existing line, but conditioned upon completion of the extension on or before December 31, 1922. A certificate to that effect will accordingly be issued.

COMMISSIONER DANIELS dissents.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require or will require the construction of an

extension of the line of the Jackson & Eastern Railway from Sebastopol to Jackson, through the counties of Scott, Leake, and Rankin, in the State of Mississippi, a distance of approximately 61 miles.

*It is ordered*, That said Jackson & Eastern Railway Company be, and it is hereby, authorized to construct said extension: *Provided, however*, That this certificate is issued upon the express condition that said Jackson & Eastern Railway Company shall not issue any bonds, or other evidence of indebtedness, for the construction of said extension or for the refunding of any obligations arising out of such construction, directly or indirectly, for a period of five years from the date upon which actual construction of said extension shall commence; and that such extension shall be completed and placed in operation on or before December 31, 1922.

*It is further ordered*, That said Jackson & Eastern Railway Company be, and it is hereby, permitted to retain for a period of 10 years from the date on which said extension shall be placed in operation, but not extending beyond December 31, 1932, all of the earnings derived from such extension: *Provided, however*, That this permission is expressly conditioned upon the keeping of applicant's accounts in such manner that the earnings derived from such extension can be segregated from those of the applicant's other line or lines, and that said extension shall be completed and placed in operation on or before December 31, 1922, as aforesaid.

*And it is further ordered*, That said Jackson & Eastern Railway Company, when filing schedules establishing rates and fares to and from points on said extension, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1176.

## MAINTENANCE EXPENSES UNDER SECTION 209.

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*Submitted December 4, 1920. Decided July 12, 1921.*

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1. In fixing the maximum amount to be included in operating expenses for maintenance under the guaranty of section 209 of the transportation act, 1920, the commission will, in applying the rule set forth in the proviso of paragraph (a) of section 5 of the "standard contract" between the United States and the carriers, use as the basic measure the expenditure for maintenance during an average six months of the test period, adjusted to differences in the cost of labor and materials and in the amount and use of the property, in accordance with the provisions of paragraph (c). *Held*, that differences in the "cost of labor," as those words are used in said paragraph (c), do not include changes in the quality or effectiveness of labor but only changes in wages.
2. In fixing the maximum amount to be included in operating expenses for maintenance under said guaranty, the commission will compute charges representing depreciations and retirements upon the same bases as those which were used during an average six months of the test period.

*James C. Davis* and *La Rue Brown* for United States Railroad Administration.

*Alfred P. Thom* for Association of Railway Executives; and *S. T. Bledsoe* and *J. P. Blair* for adjustment committee, Association of Railway Executives.

*George W. Lamb* for Louisville & Nashville Railroad Company; *H. N. Rodenbaugh* for Florida East Coast Railroad Company; *H. A. Taylor* for Erie Railroad Company; *J. E. Vance* for East Tennessee & Western Carolina Railroad Company; *M. S. Goldbeatt* for Virginian Railway Company; and others.

## REPORT OF THE COMMISSION.

## BY THE COMMISSION:

By section 209 of the transportation act, 1920, carriers accepting its provisions were guaranteed relatively the same railway operating income for the "guaranty period" of six months following the termination of Federal control, on February 29, 1920, as had been paid by the Government as compensation during the period of Federal operation. We were charged with the duty of determining the amounts payable by the United States under this guaranty and were given certain specific directions governing the method of determination.



This report deals with questions which have arisen respecting one of these specific directions, namely, that which is contained in paragraph (3) of subdivision (f) of section 209, reading as follows:

There shall not be included in operating expenses, for maintenance of way and structures, or for maintenance of equipment, more than an amount fixed by the commission. In fixing such amount the commission shall so far as practicable apply the rule set forth in the proviso in paragraph (a) of section 5 of the "standard contract" between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed).

The "standard contract" is the agreement between the Director General of Railroads and the carriers which defines the duties of the United States with respect to the properties which were taken over. Section 5 of this contract deals with upkeep, and paragraphs (a) and (c) are as follows:

(a) During the period of Federal control the director general shall, annually, as nearly as practicable, expend and charge to railway operating expenses, either in payments for labor and materials or by payments into funds, such sums for the maintenance, repair, renewal, retirement, and depreciation of the property described in paragraph (a) of section 2 hereof as may be requisite in order that such property may be returned to the Company at the end of Federal control in substantially as good repair and in substantially as complete equipment as it was on January 1, 1918: *Provided, however,* That the annual expenditure and charges for such purposes during the period of Federal control on such property and the fair distribution thereof over the same, or the payment into funds of an amount equal in the aggregate (subject to the adjustments provided in paragraph (c) and to the provisions of paragraph (e) of this section) to the average annual expenditure and charges for such purposes included under the accounting rules of the commission in railway operating expenses during the test period, less the cost of fire insurance included therein, shall be taken as a full compliance with the foregoing covenant.

(c) In comparing the amounts expended and charged under the provisions of paragraphs (a) and (b) of this section with the amounts expended and charged during the test period, due allowance shall be made for any difference that may exist between the cost of labor and materials and between the amount of property taken over and the average for the test period, and, as to paragraph (a), for any difference in use between that of the test period and during Federal control which in the opinion of the commission is substantial enough to be considered, so that the result shall be, as nearly as practicable, the same relative amount, character, and durability of physical reparation.

The guaranty under section 209 is wholly independent of any damages which the carriers may have suffered by reason of the temporary taking of their property during the period of Federal control. For all such damages the Government must render just compensation; and by their acceptance of the provisions of section 209 the carriers have in no way surrendered or abated any claims arising out of Federal operation. The guaranty, therefore, was not founded upon



a legal obligation, but upon the thought that in fairness it was the duty of the Government to protect the income of the carriers, following the termination of Federal control, until such time as higher rates could be made effective under the provisions of section 15a of the interstate commerce act.

The danger of such a guaranty, at a time when expenditures were wholly within the control of the private managements, was that the carriers might utilize the opportunity to profit unduly at the expense of the public treasury. This danger was particularly acute in the case of maintenance, and for this reason it was plainly desirable to set some limit upon the sums which might be allowed for this purpose in computing amounts payable under the guaranty. Paragraph (3) of subdivision (f) of section 209 was the means of accomplishing this end.

The "standard contract" was the result of months of negotiation between the director general and representatives of the carriers generally. The President, in the emergency of the World War, had very suddenly taken over the railroads of the country. By proclamation there had been brought into his possession and control 250,000 miles of main track, 2,500,000 freight cars, 66,000 locomotives, 55,000 passenger cars, and all the innumerable accessories of railroad plant and equipment. The owners were some 555 separate companies. The adjustment by contract of mutual rights and obligations with respect to this vast property was a matter of the greatest complexity and difficulty.

In his statement, accompanying the proclamation, the President said:

Immediately upon the reassembling of Congress I shall recommend that these definite guarantees be given: First, of course, that the railway properties will be maintained during the period of Federal control in as good repair and as complete equipment as when taken over by the Government; and, second, that the roads shall receive a net operating income equal in each case to the average net income of the three years preceding June 30, 1917;

In his subsequent message to Congress he recommended that the carriers should receive an unqualified guaranty—

that their properties will be maintained throughout the period of Federal control in as good repair and as complete equipment as at present, and that the several roads will receive under Federal management such compensation as is equitable and just alike to their owners and to the general public.

Pursuant to this recommendation Congress passed the Federal control act. Section 1 authorized the President to agree with and to guarantee to each carrier that it should receive as just compensation during Federal control an annual sum "*not exceeding* a sum equivalent to I. C. C.

lent as nearly as may be to its average annual railway operating income for the three years ended June 30, 1917." This fixed the *maximum* compensation, known as the "standard return," which the President might voluntarily agree to pay. It did not preclude him from offering less, or the carriers from seeking more; and provision was made for reference, in default of agreement, to a board of referees and ultimately to the court of claims. Section 1 further provided:

Every such agreement shall also contain adequate and appropriate provisions for the maintenance, repair, renewals, and depreciation of the property, for the creation of any reserves or reserve funds found necessary in connection therewith, and for such accounting and adjustments of charges and payments, both during and at the end of Federal control, as may be requisite in order that the property of each carrier may be returned to it in substantially as good repair and in substantially as complete equipment as it was at the beginning of Federal control, and also that the United States may, by deduction from the just compensations or by other proper means and charges, be reimbursed for the cost of any additions, repairs, renewals, and betterments to such property not justly chargeable to the United States; in making such accounting and adjustments, due consideration shall be given to the amounts expended or reserved by each carrier for maintenance, repairs, renewals, and depreciation during the three years ended June thirtieth, nineteen hundred and seventeen, to the condition of the property at the beginning and at the end of Federal control and to any other pertinent facts and circumstances.

The President is further authorized in such agreement to make all other reasonable provisions, not inconsistent with the provisions of this Act, \* \* \* that he may deem necessary or proper for such Federal control or for the determination of the mutual rights and obligations of the parties to the agreement arising from or out of such Federal control.

The "standard return," fixed as the maximum which might voluntarily be offered, was based on the results from operation in the so-called test period of three years ended June 30, 1917, these being the most prosperous three consecutive years in the history of the carriers. It was, therefore, a liberal standard of compensation for the war use of property at a time when the country was enduring grievous burdens. Indeed, the present chairman of the Senate Committee on Interstate Commerce, Senator Cummins, in a minority report submitted at the time, expressed the view that the standard return would in the aggregate provide a sum "at least \$175,000,000 more than fair, just compensation for the use of the properties, under the circumstances and conditions which now surround and confront us." The Government has since paid to no company compensation less than the standard return, and to some it has paid more.

It was also known that the standard return of many companies exceeded their *real* earnings for the test period, because of failure to

make adequate provision for maintenance and depreciation. One alternative in such cases was to pay less than the standard return, and the other, which was adopted, was to accomplish the same purpose by charging against the director general only the same relative amount of maintenance as during the test period, charging to the carrier any excess necessary for safe and proper operation. That this theory was followed is shown by the following passage from a letter written by this commission to the President under date of September 3, 1918, and included as Appendix H of our annual report to Congress for the year 1918:

It is proper to state that all carriers do not observe the same standards of maintenance and depreciation. These depend somewhat upon varying operating and traffic conditions in different sections, and to a larger extent are affected by variations in the administrative policies of the carriers. There is, however, no fixed standard and aside from the conjectural character of the assumption of a single standard for all carriers, such an equalizing attempt would involve a complete revision of the accounts and reports of each carrier, a task so vast that it is utterly impracticable to attempt it. To meet this difficulty in a practical way it is proposed to provide in the contract with carriers an *automatic correction* in the form of a provision that during Federal control the Government shall expend enough on the carrier's property to insure its return at the end of Federal control in substantially as good repair and complete equipment as it was on January 1, 1918, *with the proviso that an average annual expenditure for such purposes equal, making due allowance for differences in wages of labor and cost of materials to that made by the carrier itself during the test period shall be deemed a satisfaction of the covenant*, and with a further provision that expenditures in excess of those so made by the carriers for the test period, but required for the safe and proper operation of the property, assuming a use similar to the use during the test period, *shall be made good by the carrier*. [Italics ours.]

Stating the matter in another way, if a carrier spent too little for maintenance during the test period, it necessarily follows:

- (1) That its standard return exceeded its real test-period earnings.
- (2) That the same relative amount of maintenance during Federal control would leave the property in worse condition at the end than at the beginning of such control.

Under the standard contract the Government in effect guaranteed no more than this same relative amount of maintenance, but its obligation to make the carrier whole for the use of its property was nevertheless met, in cases such as outlined above, by the payment of the full standard return. The excess of this return over just compensation was an offset to any inadequacy in maintenance. That this method of handling the matter was anticipated by Congress is shown by the injunction, in the provisions of the Federal control act quoted above, that the contract should protect the Government against repairs and renewals not justly chargeable to it and take into account the amounts spent for maintenance during the test period.

For present purposes the importance of this is to show that the upkeep provisions of the standard contract did not provide, and were not intended to provide, in and of themselves for the return of the property in all cases in as good condition as when received.

Passing to the matters more directly in issue, in computing amounts payable under the guaranty, we must limit the allowance for maintenance by the rule set forth in the proviso of paragraph (a) of section 5 of the standard contract. The director general interprets this rule in one way and the carriers in another. It becomes our duty to determine what we believe to be the proper interpretation.

The contention of the director general is that this proviso recognized the impossibility of determining by any physical comparison the amount of maintenance for which the Government was liable and provided instead a simple mathematical or accounting method. The property taken over was so vast that any attempt to ascertain and compare by actual inspection its physical condition at the beginning and at the end of Federal control was manifestly out of the question. The problem was, therefore, to fix upon some workable rule for measuring the Federal liability in this respect, which would make possible a final settlement of accounts without interminable controversy of infinite complexity of detail. Such a rule, the director general contends, was furnished by the proviso.

The maintenance expenditures during the test period were the basic measure, but it was recognized that because of changes in wages and prices and in the amount and use of the property these expenditures would not serve the purpose fairly unless they were equated in accordance with such changes. It is conceded that the contract provides for such equation, and there is little difference of opinion as to the process to be followed except in the case of labor. So far as labor is concerned, the director general confines the equation to the change in wages, including the effect upon wages of reduction in hours of service. In the administration of his duties he is acting upon this interpretation and has already made settlements with a number of important carriers upon that basis.

Representatives of the carriers, however, contend that the equating process ought not to stop with changes in wages but should allow, also, for changes in the quality or effectiveness of labor. Unless this is done, they say that the carriers will be unjustly deprived of very large sums of money. This statement is based on the claim that labor was far less effective in the guaranty period than in the test period, because of changes in working rules and conditions and because, also, of a notable reduction of efficiency arising out of changes in personnel and other causes.

The controversy centers over the meaning of the words "cost of labor" as they are used in paragraph (c) of section 5 of the standard contract. As we understand the opposing views, the director general contends that these words mean only the rates of pay per unit for the recognized varieties of railroad labor, while the carriers contend that the labor must be related to the accomplishment of a given result, and hence that the words include in their meaning quality as well as wages.

While the course of preceding negotiations would not ordinarily be of weight in determining the meaning of the written instrument finally agreed upon, both parties have seen fit to refer to these negotiations in support of their respective contentions. The original draft proposed by the carriers contained the language: "increases in the cost of material, increases in the price of labor, *decreases in the efficiency of labor.*" The underscored words were eliminated at the instance of the director general, and he points out that if it had been the intent of the parties to allow for the quality or efficiency of labor, reference to this matter would not have been eliminated and the intent would have been expressed in clear and unmistakable language. Similarly the carriers lay stress upon the substitution of the words "*cost of labor*" for "*price of labor*" and hold that this is inconsistent with any intent to make "cost" synonymous with "price," or rate of pay. It appears, however, that in one of their later drafts the carriers combined reference to "*cost of labor*" with a provision requiring consideration to be given to "differences in efficiency of labor," thus indicating that the change from "price" to "cost" was not deemed of controlling importance or to make unnecessary specific reference to the matter of efficiency.

We have no doubt that the director general intended to exclude quality or efficiency of labor from the equating process and that he believed that this had been done in the instrument finally agreed upon. This, apparently, was our own understanding at the time, for, as has already been noted, our letter of September 3, 1918, to the President contained these words:

with the proviso that an average annual expenditure for such purposes, equal, making due allowance for differences in *wages of labor* and cost of materials, to that made by the carrier itself during the test period shall be deemed a satisfaction of the covenant.

It remains to be determined whether or not this purpose was in fact accomplished.

As we have already made clear, the guaranty of section 209 is independent of any claims arising out of Federal control, and in defining this guaranty Congress was free to limit the allowance for

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maintenance in such way as it saw fit. The method selected was reference to the proviso in paragraph (a) of section 5 of the standard contract. By this reference the proviso became a part of section 209, and for present purposes it is, therefore, wholly immaterial whether or not the contract was consistent with the constitutional rights of the carriers or with their statutory rights under the Federal control act. We are concerned only with the meaning of that language in the contract which has been incorporated, by reference, in the guaranty statute. We say this only to avoid confusion of issues and not to cast doubt upon the validity of the contract.

It appears that after setting forth in general terms the obligation of the director general with respect to upkeep, it became necessary to fix some practicable method by which his compliance with this covenant might be measured. The proviso was the method definitely agreed upon by the parties. In essence it provides that the annual expenditure, or payment into funds, of sums for maintenance during Federal control equal in the aggregate, after equation in accordance with paragraph (c), to the corresponding sums spent or reserved during the test period "*shall be taken as a full compliance with the foregoing covenant.*"

We are clear that it was the purpose of this proviso to provide a simple and easily applied test which would make it possible to measure compliance with the covenant by resort to the accounts of the carriers and without the prolonged controversy which would follow any method involving physical inspection or opinion evidence. In other words, it was the purpose to employ what has been called an "accounting" test rather than an "engineering inspection" test.

Paragraph (c) is incidental to and must be read with the proviso. It defines the method by which expenditures in the test period should be equated to changed conditions. The carriers emphasize the concluding words: "so that the amounts shall be, as nearly as practicable, the same relative amount, character, and durability of physical reparation." But these words are not an independent covenant or obligation, but merely an explanation of the purpose of the equating process and an affirmative declaration by the parties that this process would produce the desired result "as nearly as practicable."

The words "cost of labor" in this paragraph do not, we think, open the door to a comparison of the quality or efficiency of labor. To hold otherwise would be contrary to the plain intent of the proviso, for it is impossible by resort to the accounts of carriers to



determine the relative efficiency of labor at various periods, and the introduction of this indefinite and intangible factor would have relegated the "accounting" test to the very limbo of controversy and conflict of opinion which it was designed to avoid. Moreover, what the carriers have in mind is really not cost of *labor* but cost of *accomplishment*, an aggregate made up of the cost of labor multiplied by the quantity necessary for a given task. If it had been the intent to include the factor of quality or effectiveness or efficiency, whatever it may be termed, this would have been done in apt and unmistakable language and not by the strained construction of a phrase susceptible of a simpler interpretation. This view is strongly confirmed by the history of the negotiations.

A further significant fact is that the proviso permits the director general to fulfill his obligation in two ways—either by actual expenditure upon maintenance or by payment into funds for future use. If the latter method had been selected, obviously any comparison of efficiency of labor would have been out of the question, although a comparison of wages would have been wholly feasible.

We therefore find and conclude that the proviso in paragraph (a) of section 5 of the standard contract sets forth a rule for measuring the compliance of the director general with the covenant of upkeep by reference to the accounts of the carriers, when kept in accordance with our requirements; that the basic measure is the expenditure for maintenance during an average six months of the test period, adjusted to differences in the cost of labor and materials and in the amount and use of the property, in accordance with the provisions of paragraph (c); and that differences in the "cost of labor," as these words are used in paragraph (c), do not include changes in the quality or effectiveness of labor but only changes in wages.

This conclusion is reinforced by the character of the claims against the Government which have been based upon the carriers' interpretation of the upkeep provision. As has been shown, the insistence of the Director General of Railroads, throughout the negotiations leading up to the standard contract, that efficiency of labor should be eliminated from consideration sprang from the conviction that any attempt to weigh and appraise so indefinite a factor could only be productive of endless controversy. The soundness of this conviction and the inconclusive character of such attempts have been confirmed by the claims which the carriers have filed.

For the most part these claims have been based on a formula devised by a committee of accounting officers and engineers representing the Association of Railway Executives. More recently another formula has been devised after conferences between representatives of



the carriers and representatives of our bureau of finance. But both these formulæ are based upon the theory that changes in the ratio of maintenance expenditures for labor and for materials, so far as they are not accounted for by differences in prices and wages, necessarily reflect changes in the quality or effectiveness of labor. This theory presupposes a degree of similarity, in two given periods, between the kind of work and the conditions under which it is performed which no formula can establish and which the very nature of maintenance makes improbable, particularly when the comparison is between an average six months of a three-year period and the six guaranty months of the year 1920. The incongruous results which such a formula will produce may easily be shown.

There are also factors affecting the quantity of maintenance labor which have no connection with its quality or efficiency. Such are efficiency or inefficiency of management, changes in standards or methods, weather conditions, the effectiveness of mechanical appliances which may be utilized, and the extent to which repairs are made under contract in outside shops. The last-named has especial significance in connection with the operations of the guaranty period.

It has been suggested that inequity may result if changes in efficiency of labor are not taken into consideration. But this is far from clear. As we have shown, the Government paid most liberal compensation for the use of the railroad properties for war purposes. If there was a decrease in labor efficiency, does it follow that the railroads and their owners were in equity entitled to complete immunity from the burdens which fell upon the country because of the war, or that results would have been in any degree more favorable for them during that period if their properties had remained in private hands?

And let us consider the claims which have been presented. At the time when the roads were taken over much of their equipment was in poor condition. In a report of the division of operation of the railroad administration for the year 1918, the following appears:

One of the prime causes for the necessity of Government control of railroads and one of the most serious conditions the Railroad Administration was called on to correct when assuming control, was the general bad condition of locomotives and cars.

An extended period of heavy business, high prices for material, difficulty in obtaining sufficient labor, and the loss of many of their experienced mechanics through the selective draft, followed by an early and unusually severe winter, had resulted in a general defective condition of locomotives and cars which had reached a point where repair tracks were blocked and terminals congested with bad-order cars, and shops and roundhouses were so crowded with locomotives awaiting repairs that proper facilities for maintaining the locomotives actually in service were no longer available.

Added to this congestion due to failure of shippers to unload promptly cars consigned to them, many of which needed repairs before they could be reloaded, had made conditions at important terminals and shop points such that the mechanical departments were unable to cope with them.

Turning to the statement of May 1, 1921, made by the present director general to the committee on appropriations of the House of Representatives, it appears that the claims of the carriers for undermaintenance during Federal control which are founded upon alleged ineffectiveness of labor amount to "several hundred millions of dollars." Similar claims filed with us for the guaranty period must aggregate some tens of millions of dollars. Since the close of the guaranty period and with the falling off of traffic the carriers generally have cut their maintenance expenditures to the quick. Starting, then, with known deferred maintenance at the beginning of Federal control, we are confronted by claims for undermaintenance during the succeeding 32 months totaling in the neighborhood of a billion dollars, and by the fact that maintenance in more recent months has been subnormal. From this there might well be deduced a present physical condition of the railroads gravely perilous to both life and property. Yet in 1920 these railroads carried relatively more freight and passengers in the aggregate and more freight on the average in each car than at any time in their history.

A further consideration is deserving of mention. In the interpretation of statutes the administration of which is committed to such special tribunals as the executive departments, the Supreme Court of the United States has followed the interpretations of the administrative bodies in cases of doubtful meaning, and has deemed a reenactment of any such statute with knowledge of the administrative interpretation, without corrective change, as a congressional sanction or adoption of that interpretation. Thus, in *United States v. Hermanos y Compania*, 209 U. S., 337, which turned upon a Federal revenue law, the court said:

We have said that when the meaning of a statute is doubtful great weight should be given to the construction placed upon it by the department charged with its execution. *Robertson v. Downing*, 127 U. S., 607; *United States v. Healey*, 160 U. S., 136. And we have decided that the reenactment by Congress, without change, of a statute, which had previously received long continued executive construction, is an adoption by Congress of such construction. *United States v. Falk*, 204 U. S., 143, 152.

Other authorities are *New Haven R. R. v. Interstate Com. Com.*, 200 U. S., 361, 401-402; *United States v. Hammers*, 221 U. S., 220, 228; *Jacobs v. Pritchard*, 223 U. S., 200, 214.

It would seem that the principles stated in the foregoing quotation enter into this case. Federal control was in the hands of the Director General of Railroads as the agent of the President, and

the standard contract, authorized by and pursuant to an act of Congress, prescribed the bases for settlements for the period of Federal control. The subsequent transportation act, 1920, made the appropriate provisions of the standard contract our guide for the like purpose during the six-months guaranty period which followed Federal control.

While it is true that the court has spoken of the "long continued" construction of a statute by the administrative tribunal, the underlying principle would seem to be applicable here, since from the outset, as far as the matter has gone, the director general has construed the provision here in question as we now construe it.

As stated above, preceding the formulation of the contract, and in a letter to the President, later embodied in our annual report to Congress for the year 1918, we stated that, to avoid practically insuperable difficulties in the way of a precise contrast between maintenance for the test and Federal control periods, it was the purpose to incorporate in the contract a provision which should make annual expenditures during Federal control or payments into funds equal to test-period expenditures equated to "*wages* of labor and cost of materials" during Federal control a satisfaction of the covenant concerning maintenance.

It also appears that this construction of the proviso on the part of the director general was known to Congress at the time the transportation act, 1920, was enacted. In the report of the committee on interstate and foreign commerce of the House of Representatives, dated November 10, 1919, and accompanying bill H. R. 10453, which contained the guaranty provisions of section 209 substantially in their present form, a letter from Director General Hines to Senator Townsend, dated October 21, 1919, is quoted, which reads in part as follows:

The actual obligation of the Railroad Administration is to return the properties in the condition in which they were on December 31, 1917, but under the contract the Railroad Administration has the option to claim that it has performed its obligation if it can show that it has expended on the property amounts corresponding to those which on the average were expended during the test period, modified so as to represent changes in *wages*, prices, and use. As a practical matter, the Railroad Administration is figuring out what the average yearly expenditure for the test period would be for the year 1919 after "equating" the changing factors of prices, *wages*, and use. [Italics ours.]

Thus it follows that the subsequent transportation act, 1920, which prescribed the contract provision for our guidance, was enacted with knowledge of that proposed and interpreted basis of settlement, and such construction of the contract may be deemed to have been in the mind of Congress and to have been accepted and adopted in the enactment of the transportation act. This was in every way analogous to the reenactment of a statute with knowledge of an administrative

interpretation of it, and these considerations may well influence us in the determination of the issue now before us.

A further question involved in the maintenance adjustment has to do with the treatment of depreciation and retirement accounts in the guaranty period. The carriers contend that the same differences in the cost of labor and materials should be recognized in adjusting these accounts as in the case of the accounts representing applied material. Their argument is in substance that the obligation of the Government was to return the property in as good condition as when taken over; that losses in physical life of property, represented by depreciation, should therefore have been paid for at current values; and that the obligation under the guaranty of section 209 in this respect is the same.

Under the effective accounting rules and practices charges for depreciation and retirements are based upon the book value—usually the cost—of the property. Depreciation charges are computed at an annual percentage of the book value and retirement charges take up any remaining portion of this value not accounted for by depreciation or salvage. Upon any unit of property, therefore, these charges do not change as market prices rise or fall; but since new property is taken into the accounts at cost when acquired, the aggregate expenditures for depreciation and retirements are to this extent affected by changes in current price levels. It may be assumed that the bulk of the equipment in use during the guaranty period was bought prior to the test period and was still in use at the close of the guaranty period. Its replacement cost is yet unknown. This is equally true of other property.

We find and conclude that it is not proper in determining amounts payable under the guaranty to take into consideration differences in cost of labor and materials which would not have affected the accounts if guaranty-period conditions had been substituted for those of the test period, and neither depreciation nor retirement accounts will be adjusted for such differences. In fixing maximum maintenance allowances for the guaranty period, charges representing depreciation and retirements will be computed upon the same bases as those which were used during an average six months of the test period.

The guaranty of section 209 was accepted by 667 carriers, and to date they have been paid on account amounts totaling well over \$400,000,000. A balance still to be paid is in controversy, and this report deals with the two major questions which have been in dispute and which were argued before the full commission last December. Minor questions are appropriately left to be determined as they arise in specific cases. Upon one of these major questions, that which has to do with depreciation and retirements, we are all in agreement. As to the other, there are differences of opinion.

Effort is made to draw a distinction between "inefficiency of labor" as used in what is termed the "offensive sense of slacking or dereliction of labor" and as used to cover "changed effectiveness" resulting from the "changes in terms and conditions under which labor worked." The contention is that allowance should be made to the carriers for expenditures caused by the inoffensive form of inefficiency but not by the offensive.

It is needless to say that this report is not based upon a distinction between offensive and inoffensive inefficiency. One dissenter goes so far as to state that the carriers make no claim for allowances based on inefficiency. The fact is that the records are filled with their statements as to the alleged expense caused by "inefficiency of labor," with nothing whatever to indicate an intent to limit the expression to any particular species. As one illustration of many which might be offered, the following excerpt from a brief filed in behalf of the Kansas City Southern is in point:

It is not difficult to understand that the Director General might be unwilling to have the expression "decreases in the efficiency of labor" incorporated in the contract. To have done so might have been construed as an affront to labor, at a time when strenuous efforts were being made to establish and promote friendly and sympathetic relations. One can easily imagine the storm of protest which might have followed.

But at about the same time that "efficiency of labor" went out of the contract we find that "cost of labor" came into it in substitution for "price of labor." Were the two incidents related? Was it the intention to employ the more innocuous expression "cost of labor" (which would include the inefficiency of labor as well as its efficiency), and in this manner rid the contract of language which might be regarded as offensive to the great army of railroad employees whose services were being performed for the Government?

\* \* \* \* \*

Is it not a fair inference, therefore, that the efficiency or inefficiency of labor *as such* was taken out of the contract *and included in the more inconspicuous and less offensive expression "cost of labor"?* [Italics ours.]

The carriers have always claimed and still claim that various factors, apart from changes in wages or prices, have increased the cost of maintenance work. They have insisted that "inefficiency of labor" was one of the chief of these. In presenting their claims or statements of amounts due under the guaranty, however, for the most part they do not undertake a segregation so that we may know what portion is ascribed to any one factor, but ask for a lump sum based upon a formula, revised from time to time, assumed to cover all elements of increased cost whatever they may be.

In the application of this formula items taken from the accounts are used; but that fact furnishes no proof of its soundness, which is, of course, dependent upon the basic premise. To the fallacy of this premise we have already alluded. In the proposed Baltimore & Ohio



report, which is mentioned in one of the dissenting opinions, the possible unreliability of the formula was in effect conceded by the statement that it would be used "except in such cases in which it may appear that such use will result in substantial injustice to the carrier or to the United States." The carriers' adherence to formula has been largely guided by results, and they have yet to accept any without reservations.

The same dissenter states that under the formula plan of settlement which he indorses, "where the amounts expended and charged as shown on the books of the carrier, *are less* than the maximum amount so fixed the carrier will, notwithstanding this fact, be *limited to the amounts shown on its books of account under our accounting rules.*" He omits to mention that the plan contemplates permitting the carrier to accrue and include in the reckoning, at any time prior to settlement, reserves representing alleged undermaintenance during the guaranty period. In other words, it permits payments in excess of "actual expenditures" during the guaranty period, and this was in fact the case in the proposed Baltimore & Ohio report.

Stress is laid upon changes in working conditions. During the guaranty period the Pennsylvania Railroad contracted for the repair of certain locomotives at the Baldwin Locomotive Works. It is significant that in our investigation of this matter the carrier's own witness testified, as stated in the brief filed in its behalf, that the "cost of repairing a locomotive at the railroad's shops as compared with the cost in the Baldwin's shops might be fairly put at a ratio of \$9,453 to \$22,434." This notwithstanding the changes in working conditions. The effect of the "national agreements" is a highly controversial matter and as yet but one side has been presented to the Senate investigating committee. If, however, any of these changes in working conditions in effect caused an increase in wages and the amount of the increase can be shown by satisfactory evidence, there is nothing in this report which would preclude an allowance accordingly.

MEYER, *Commissioner*, concurring:

While I concur fully in the report of the majority, there are certain individual or personal considerations that should be made known to all those who are interested in the questions at issue.

On January 3, 1918, immediately after Federal control had been instituted, Director General McAdoo requested me to give consideration to statistical and accounting questions connected with the transition from private operation to Federal control. My reply was made in the form of a memorandum to the director general and was dated January 12, 1918. The most of that memorandum is not relevant here. However, Part IV, entitled "The Standard of

Maintenance," is directly in point, as indicating the point of view from which I approached some of the then pending problems. This memorandum was transmitted before there had been any conferences, of which I have knowledge, relating to the contract. In Part IV, referred to, I used the following language:

Under paragraph III I have discussed matters relating primarily to the amount or quantity of property taken over. I now wish to refer to the condition or quality of that property. \* \* \* There is available \* \* \* a practicable test which I believe will be found reasonably satisfactory \* \* \*. I refer to the standard of maintenance observed by carriers as reflected in and determined by their respective operating expense accounts. The amount of money expended and charged under the heading of repairs, renewals, maintenance and depreciation, for instance, through a series of years, afford a reliable index of the condition of the property upon which such expenditures have been incurred, giving due consideration to variation in prices.

Then follows a proposed paragraph to be inserted in section 1 of H. R. 8172, the then pending Federal control bill, to give effect to the ideas previously expressed. The paragraph proposed by me reads in part as follows:

During the period of Federal control each carrier shall charge to operating expenses for depreciation and maintenance on its several classes of property, sums not exceeding the sums determined by the respective average rates charged by it on such classes of property during the three years ended June 30, 1917. \* \* \* and provided further that, if on account of shortage of labor or materials a carrier cannot reasonably expend for maintenance the sums thus determined, giving due consideration to changes in the prices of materials and wages of labor, such sums shall nevertheless be charged to operating expenses and held for the purposes specified until such maintenance work can reasonably be undertaken.

I then pointed out to the director general that if this provision should be enacted into law it would insure to each carrier the same standard of maintenance and condition of its property at the expiration of Federal control, as it had set for itself at the beginning or during the test period.

I also have before me the original draft of the contract dated March 22, 1918, circulated by Mr. Alfred P. Thom. I will not recite nor discuss the marginal notes, inserts, and eliminations shown upon this copy as a result of discussions in the earliest conferences. They all point in one direction, namely, that nothing was done in the joint conferences on the contract in contravention of the views expressed regarding maintenance in my memorandum to the director general.

My connection with the contract was very slight. I was a member of the contract committee of the commission which was formed at the request of the director general and which participated in the joint conferences between the representatives of the director general and the representatives of the carriers. Obviously I had nothing to do directly with the action of the legally contracting parties.



It must be plain to anyone who reads what has preceded that the views expressed in the majority report are the only views regarding the interpretation of the contract in which I could concur without doing violence to the facts within my personal experience connected with the contract.

I realize that there may be room for doubt regarding the meaning of the contract as made by the contracting parties. I know of no basis for doubt regarding the understanding of the parties. As an individual member of the commission, I can only insist that the contract means what the majority report says it means, and I can not acquiesce in a contrary view until the Supreme Court of the United States has directed me to do so. Of the four then members of the commission who were members of the contract committee, three unqualifiedly approve the position of the majority. It is also my understanding that the director general has been maintaining the same position that is taken in the majority report. In other words, of the three groups represented in the protracted joint conferences which preceded the formulation of the final draft of the standard contract, two agree with the views expressed in the majority report.

LEWIS, *Commissioner*, concurring:

I am unable to find in the proclamation of the President, the law, or the standard contract, ground for acceptance of claims for inefficiency of labor built up on abstract theories of relative productive capacity of labor in the guaranty period, as compared with a six months' average in the test period, on opinion testimony or fanciful formulae based on work not done or that will not be done. I therefore can not accept so-called inefficiency of labor claims set up on such nebulous foundations.

However, my interpretation of the law and contract does not accord with a finding that consideration of "cost of labor" as herein involved, shall be limited to "only changes in wages." In the case of maintenance actually done, properly entered under prescribed accounting, and for which there are established bases for comparisons, such a finding seems to foreclose consideration of the specific effect of changed working conditions and of rules and agreements imposed, generally by the Government or with Government sanction, between the test and guaranty periods.

I concur in the finding on the insertion of the following paragraph in the majority report:

If, however, any of these changes in working conditions in effect caused an increase in wages, and the amount of the increase can be shown by testimony or satisfactory evidence, there is nothing in the majority report which would preclude an allowance accordingly.

While the paragraph does not fully cover the issue, my concurrence is based on the expectation that, in consideration of specific cases, this stipulation will impart such elasticity as will result in fair and satisfactory settlements.

It is desirable that the railroads be instructed to eliminate fanciful "inefficiency of labor" claims from their presentations. The requirements of the law and contract, however, appear to me to require consideration of specific cases, rather than adoption of formulae to be dogmatically applied. Such a course is necessary to prompt and just settlement.

DANIELS, *Commissioner*, dissenting:

The holding in the majority report that in allowing for maintenance during the guaranty period differences in the cost of labor between the guaranty period and the average six months of the test period shall include only changes in wages irrespective of the labor cost of work done is, in my judgment, erroneous and inequitable.

The essential provisions of section 209, which afford the basis upon which the amounts payable to the several carriers are to be ascertained, are as follows:

SEC. 209 (c). The United States hereby guarantees—

(1) With respect to any carrier with which a contract \* \* \* has been made fixing the amount of just compensation under the Federal Control Act, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation \* \* \*;

(2) With respect to any carrier entitled to just compensation under the Federal Control Act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal Control Act, including the increases in such compensation provided for in section 4 of the Federal Control Act. If any such carrier does not accept the President's estimate respecting its just compensation, and if in proceedings under section 3 of the Federal Control Act it is determined that a larger or smaller annual amount is due as just compensation, the guaranty under this paragraph shall be increased or decreased accordingly.

Paragraph (d) provides for the payment by any carrier into the Treasury of the United States of any amount of railway operating income earned during the guaranty period in excess of the income guaranteed.

Paragraph (f) gives directions for computing railway operating income, or any deficit therein, for the guaranty period, for the purposes of section 209, and among other directions are the following:

(f) (3) There shall not be included in operating expenses, for maintenance of way and structures, or for maintenance of equipment, more than an amount fixed by the Commission. In fixing such amount the Commission shall so far

as practicable apply the rules set forth in the proviso in paragraph (a) of section 5 of the "standard contract" between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed);

(f) (5) The Commission shall require the elimination and restatement of the operating expenses and revenues (other than for maintenance of way and structures, or maintenance or equipment) for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period.

(g) The Commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the several amounts necessary to make good the foregoing guaranty to each carrier. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States, for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Paragraph (a) of section 5 of the standard contract referred to in subdivision (3) of paragraph (f) of section 209 quoted above, containing the proviso setting forth the rule which is to be applied so far as practicable, is as follows:

SEC. 5 (a). During the period of Federal control the Director General shall, annually, as nearly as practicable expend and charge to railway operating expenses, either in payments for labor and materials or by payments into funds, such sum for the maintenance, repair, renewal, retirement and depreciation of the property described in paragraph (a) of section 2 hereof as may be requisite in order that such property may be returned to the company at the end of Federal control in substantially as good repair and in substantially as complete equipment as it was on January 1, 1918: *Provided, however,* That the annual expenditure and charges for such purposes during the period of Federal control on such property and the fair distribution thereof over the same, or the payment into funds of an amount equal in the aggregate (subject to the adjustments provided in paragraph (c) and to the provisions of paragraph (e) of this section) to the average annual expenditure and charges for such purposes included under the accounting rules of the Commission in railway operating expenses during the test period, less the cost of fire insurance included therein, shall be taken as a full compliance with the foregoing covenant.

Paragraph (c) referred to in the proviso in the foregoing paragraph (a) is as follows:

(c) In comparing the amounts expended and charged under the provisions of paragraphs (a) and (b) of this section with the amounts expended and charged during the test period, due allowances shall be made for any differences that may exist between the cost of labor and materials and between the amount of property taken over and the average for the test period, and, as to paragraph (a), for any difference in use between that of the test period and during Federal control which in the opinion of the Commission is substantial enough to be considered, so that the result shall be, as nearly as practicable, the same relative amount, character and durability of physical reparation.

Among the questions which have arisen in the endeavor to adjust the amounts due the several carriers under the guaranty provisions above quoted, the one which has caused the most controversy is as to the amount which the carriers, in arriving at their operating income, were entitled to expend or charge for maintenance of way and structures and maintenance of equipment during the guaranty period.

Similar controversies are pending between the director general and the carriers, as to the Government's obligation to maintain the railroads during the period of Federal control. Unless the carriers and the director general agree upon the settlement of their controversies over the subject of maintenance, it may be necessary for the commission to decide those controversies, by reason of the provisions of paragraph (h) of section 5 of the standard contract, which is as follows:

If any question shall arise, either during or at the end of Federal control, as to whether the covenants or provisions in this section contained are being or have been observed, the matter in dispute shall, on the application of either party, be referred to the commission, which, after hearing, shall make such findings and order as justice and right may require, which shall be final as to the questions submitted and shall be binding on and observed by both parties hereto, except that either party may take any question of law to the courts, if he or it so desires.

In any event, pursuant to paragraph (3) of subdivision (f) of section 209 of the transportation act, the commission is required to compute the railway operating income or deficit of each carrier for the guaranty period, and in such computation, so far as practicable, to "apply the rule set forth in the proviso in paragraph (a) of section 5 of the standard contract." Therefore, our interpretation of this rule and its application in the computation of income for the guaranty period will affect not only the settlements under the guaranty but may be determinative in disputes growing out of Federal control, as between the director general and the carriers.

The circumstances which give rise to these controversies are the differences in the cost of labor and material during the Federal control period or during the guaranty period as compared with the test period. The chief controversy is as to the interpretation of the words "cost of labor." It is agreed that the scales of wages and the prices of materials increased to such an extent that the money expenditures for a given amount of maintenance were substantially greater in the guaranty period than in the test period. It is shown, moreover, that not only were the wages per hour or per day increased, but in certain cases the hours of labor per day were reduced, new rates and rules for overtime were established, new working conditions were imposed, and extensive changes in the personnel of shop and other forces incident to the war were experienced.

A complete interpretation of the adjustments required by paragraph (c) of section 5 of the "standard contract" requires consideration also of differences between the amount of property maintained during the guaranty period and the average for the test period, and of any difference in use between that of the test period and during the guaranty period which in our opinion is substantial enough to be considered.

The contentions of the carriers are that they are entitled to an allowance for maintenance during the guaranty period such that they may expend, and in determining net operating income or deficit during the guaranty period, are entitled to be allowed whatever amount was required to accomplish the same amount of physical maintenance that was done during an average six months of the test period. Their position may be illustrated as follows: The cost of applying 100 tons of rail of the same weight as that replaced in renewal of track is divided into the cost of the rail (material) and the cost of placing it in position (labor). The cost of labor for a particular unit of accomplishment is determined by the price per hour multiplied by the number of hours required. Assuming \$35 per ton as the delivered cost of rail and 40 cents per hour as the cost of labor required to put it in place during the test period, and that, to lay the rail, 100 hours were paid for, the total cost of 100 tons of rail in place in the track would be \$3,540. If, during the guaranty period, the price of rail was \$45 per ton and the labor 50 cents per hour, and if 125 hours instead of 100 were paid for to lay 100 tons of rail, the cost of 100 tons of rail in place in the track during the guaranty period was \$4,562.50. The carriers contend, therefore, that if the actual cost of 100 tons of rail in place in the track during the guaranty period was \$4,562.50, they were entitled to charge that amount to operating expenses less the salvage value of all rails replaced in ascertaining their net operating income or deficit:

It has been urged by the director general that in a situation such as last mentioned above the carrier, in determining the amount which it was entitled to be allowed, for, say, placing 100 tons of rail of the same weight as that replaced in the track during the guaranty period, should be permitted to charge in the situation illustrated above for only 100 hours of labor instead of 125 hours actually expended; and that by making settlement on this basis the Government would pay in full the "cost of labor" contemplated by paragraph (c) for the replacement of, say, 100 tons of rail during the guaranty period, notwithstanding the fact that the expenditure of such amount during the guaranty period would have resulted in replacing a smaller amount of rail and would have failed to accomplish "the same relative amount, character, and durability of physical reparation."



One of the curious inconsistencies of this contention seems to be that while it concedes full allowance for whatever changes in the cost of outside labor may be reflected in the higher cost of material, it refuses similarly to allow for the corresponding cost of labor to the carrier in putting the same amount of material in place.

A good way to test the contention is to suppose that by reason of the war there was displaced a class of laborers by another whose wages, though higher on a time basis, resulted in more work per dollar expended in wage than per dollar expended in wages for the labor displaced. Would it be argued in such case that the carrier was entitled to charge to maintenance the cost of a greater amount of actual work performed than was accomplished by the expenditure of an equal money outlay in an average six months of the test period?

The contentions of the director general, however, are based upon the construction and interpretation of the standard contract.

An understanding of the factors which must be considered in determining the questions raised requires an examination of the facts and circumstances respecting the taking of the railroads by the Government, their operation by the director general during the period of Federal control, and their operation by the carriers during the guaranty period.

By a proclamation, dated December 26, 1917, the President took possession and assumed control of the railroads through an agent designated by him "Director General of Railroads," and in his proclamation instructed the director general as follows:

The Director shall, as soon as may be after having assumed such possession and control, enter upon negotiations with the several companies looking to agreements for just and reasonable compensation for the possession, use, and control of their respective properties on the basis of an annual guaranteed compensation, above accruing depreciation and the maintenance of their properties, equivalent, as nearly as may be, to the average of the net operating income thereof for the three-year period ending June 30, 1917, the results of such negotiations to be reported to me for such action as may be appropriate and lawful.

In his statement accompanying the proclamation of December 26, 1917, the President said:

Immediately upon the reassembling of Congress I shall recommend that these definite guarantees be given:

First, of course, that the railway properties will be maintained during the period of Federal control in as good repair and as complete equipment as when taken over by the Government; and

Second, that the roads shall receive a net operating income equal in each case to the average net income of the three years preceding June 30, 1917;

and in his message to Congress the President did recommend that the carrier should receive from the Government an unqualified guaranty—

that their properties will be maintained throughout the period of Federal control in as good repair and as complete equipment as at present, and that the several roads will receive under Federal management such compensation as is equitable and just alike to their owners and to the general public.

Pursuant to the President's recommendations Congress passed the Federal control act of March 21, 1918, which authorized the making of the standard contract. Section 1 of the Federal control act contains the following provision:

Every such agreement shall also contain adequate and appropriate provisions for the maintenance, repair, renewals, and depreciation of the property, for the creation of any reserves or reserve funds found necessary in connection therewith, and for such accounting and adjustments of charges and payments, both during and at the end of Federal control, as may be requisite in order that the property of each carrier may be returned to it in substantially as good repair and in substantially as complete equipment as it was in at the beginning of Federal control, \* \* \* ; in making such accounting and adjustments, due consideration shall be given to the amounts expended or reserved by each carrier for maintenance, repairs, renewals, and depreciation during the three years ended June thirtieth, nineteen hundred and seventeen, to the condition of the property at the beginning and at the end of Federal control and to any other pertinent facts and circumstances.

Thereupon the director general, as directed by the President and as the President's agent, entered upon negotiations with the carriers looking to agreements with them for just compensation for the use of their properties by the Government during Federal control, which compensation the President, in his proclamation, declared must be "above accruing depreciation and the maintenance of their properties." The result of these negotiations was the standard contract now before us for construction in respect of the matter of maintenance. Section 5 of the standard contract deals with the matter of upkeep, or maintenance, and has in part been quoted above.

The principles which we must apply in the determination of this important question are as follows:

(a) The fundamental, paramount, and all-embracing rule is to ascertain and give effect to the intention of the legislating body.

(b) In interpreting remedial statutes (such as the transportation act, 1920) consideration should be given to the difficulties or evils to be cured or abolished and to the remedy provided by the new law, and the statute should be liberally construed so as best to advance the object of the legislating body by suppressing the mischief and securing the benefits intended.

(c) It is always assumed that the legislative body intended to enact only what is reasonable and just, and consequently statutes should be so construed that absurdity, hardship, and injustice will be avoided.

This is the law under which the entire standard contract, including the proviso in question, must be interpreted, and we accordingly re-

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state in paragraphed form the relevant substance of the language which we have quoted therefrom.

(1) Every such agreement shall contain, and hence must be construed to contain, adequate and appropriate provision for—

(a) The maintenance, repair, renewals, and depreciation of the property,

(b) The creation of any reserves or reserve funds found necessary in connection therewith, and

(c) Such accounting and adjustments of charges and payments, both during and at the end of Federal control,

(d) As may be requisite in order that the property of each carrier may be returned to it in substantially as good repair and in substantially as complete equipment as it was at the beginning of Federal control, and also that the United States may by deduction from the just compensations or by other proper means and charges be reimbursed for the cost of any additions, repairs, renewals, and betterments to such property not justly chargeable to the United States.

(2) In making such accounting and adjustments due consideration shall be given—

(a) To the amounts expended and reserved by each carrier for maintenance, repairs, renewals, and depreciation during the three years ended June 30, 1917;

(b) To the condition of the property at the beginning and at the end of Federal control; and

(c) To any other pertinent facts and circumstances.

In reaching a conclusion we must bear in mind that the director general in making the contract was acting as the agent and representative of the President; that the President in his message to Congress had defined the term "maintenance" as used in his proclamation (which constituted his directions to his agent the director general) as "a guaranty" from the Government to the carriers that "their properties will be maintained throughout the period of federal control in as good repair and as complete equipment as at present," and that Congress had in the Federal control act expressly enacted that every agreement entered into with any carrier as to compensation

shall also contain adequate and appropriate provisions for the maintenance, repair, renewals and depreciation of the property, for the creation of any reserves or reserve funds found necessary in connection therewith, and for such accounting and adjustments of charges and payments, both during and at the end of Federal control as may be requisite in order that the property of each carrier may be returned to it in substantially as good repair and in substantially as complete equipment as it was in at the beginning of Federal control.

It was thus made the duty of the director general, in making contracts with the several carriers, to provide for the maintenance of their properties by the Government in such condition as would assure to them the return of their properties, as the President and Congress both declared, "in substantially as good repair and in substantially as complete equipment as it was in at the beginning of federal control."

The majority report discusses this matter, and after considering what seems to me a special case, says:

For present purposes the importance of this is to show that the upkeep provisions of the standard contract did not provide, and were not intended to provide, in and of themselves for the return of the property in all cases in as good condition as when received.

It is submitted that the above conclusion is drawn from exceptional cases, where carriers in the test period had undermaintained their properties, and hence overstated their net income. In such cases the standard return was payable, but deductible therefrom or chargeable thereto were such expenditures for necessary additional maintenance as the carrier's omissions in the past rendered imperative. In cases where the director general afforded only the same relative amount of maintenance as the too scant expenditure made by the carrier itself in the test period, it is true that the property at the end of Federal control might be in worse condition than at the beginning of such control. But this elevates an exceptional condition into the rule, unless we have ground to believe that American railways generally were undermaintained during the test period.

Laying aside the question whether the director general could lawfully have violated his instructions from his principal, who was the President, or the act of Congress, it is obvious that we can not conclude that he did so unless the terms of the standard contract admit of no other construction.

Whenever the terms of the contract are examined there is found nothing whatever to justify the conclusion that it was the purpose or intent of the director general to depart from his instructions or to disregard the act of Congress.

No one contends that the main covenant in section 5 (a) of the contract is susceptible of any such interpretation.

The proviso, which seeks to establish a test of whether the duty of the director general as to maintenance has been complied with, contemplates that the director general would currently and annually spend in maintaining the property, fairly distributed over the same, or establish in reserves for the purpose, equal to the amount spent or charged on the average each year during the test period by the carrier itself, adjusted to the different level of the cost of labor and the cost of material during Federal control, allowing for any difference in the property taken over and that operated during the test period, and also for any difference in use between the two periods, and that such adjustment would be made "so that the result shall be, as nearly as practicable, the same relative amount, character and durability of physical reparation."

Manifestly there is nothing in this language which would compel us to say that the director general has entered into a contract which

does not provide generally for the maintenance of the property in such condition as to assure its return to its owners in substantially as good repair and in substantially as complete equipment as it was at the beginning of Federal control.

The majority report says:

A further significant fact is that the proviso permits the Director General to fulfill his obligation in two ways—either by actual expenditure upon maintenance or by payment into funds for future use. If the latter method had been selected, obviously any comparison of efficiency of labor would have been out of the question, although a comparison of wages would have been wholly feasible.

Without conceding that any claim of the carriers requires the consideration of what is here termed “efficiency of labor,” I believe that this contention, while plausible, will not stand analysis. The alternative method—of paying money into funds—was to provide for the effectuation of what direct outlay on maintenance would otherwise have secured. Can it be seriously argued that if the dollar currently paid in wage during Federal control would have provided more maintenance in actual physical work the director general would have had to pay into funds an amount of money more than sufficient to pay for the maintenance done during the test period? If he would not, how can the conclusion be avoided that he was required, if he elected the alternative method, to pay into funds sufficient to provide for the same amount of work as would have been necessary if the work had been done and paid for outright?

We have not overlooked the fact, apparently admitted by all parties, that during the negotiations the carriers insisted on the insertion in the contract of a provision to cover in express terms the “inefficiency of labor” and that the director general insisted on inserting in the contract the expression “price of labor.” It is clear, however, from the negotiations that while the director general would not agree to the insertion in the contract of the suggested provision as to “inefficiency of labor,” neither would the carriers accept the insistence of the director general on the use of the term “price of labor.” The contract as finally written rejected both and used the term “cost of labor,” and this term we are called upon to construe in the light of its use in the contract, the instructions of the President to the director general, and the requirements of the statute.

It is to be noted that the negotiations respecting the form of the contract were not dealings in the ordinary and usual sense between the parties to the contract. The submission of the contract to the carriers generally was in its final form and without reference to the eliminations and substitutions effected in preliminary conferences with the director general and his advisers. The acceptance or

rejection by individual carriers was necessarily based on the words in the final draft as submitted without reference to what might have been in the minds of the director general and his advisers. The contract was submitted as standard and was submitted to the individual carrier for its acceptance or rejection. Some carriers refused to sign and others took what was offered in preference to a lawsuit. The rule which we are directed to observe is to be applied "whether or not such contract has been entered into with the carrier whose railway operating income is being computed." The contract is therefore to be interpreted solely in the light of the law which provided for it.

In the face of the duty of the director general as an agent to carry out the instructions of his principal and of his duty to comply with the act of Congress, it is impossible for us to disregard the terms of the contract just quoted, and to conclude that it was the mere expenditure of money without regard to the result on the maintenance of the property which was in his contemplation or in the contemplation of any of the parties.

Section 5, paragraph (c), of the standard contract provides for a comparison of cost at different times of the same things. The cost of labor is to be compared and the cost of material is to be compared. A comparison of costs of labor without having a unit of labor to deal with is impossible. The units must be comparable units and measurable. A calculation involving only a comparison of the cost of a man's labor at one time with the cost of a woman's labor or a boy's labor at another time would not be a comparison of the cost of labor required to do a particular piece of work. The comparison of the cost of labor necessarily involves dealing with the cost per unit of work done. The purpose in mind was to do as much in the way of maintenance in one period as had been done during another, for presumably the same amount of maintenance would produce the same result in physical reparation. There was no other way to carry the spirit of the act, the proclamation of the President, and even the standard contract into effect. We, therefore, can not hold that, as used in the contract, cost of labor is synonymous with the price of labor. The terms were used in connection with a result to be accomplished in actual maintenance—that is, material actually applied to and in place on the property and work actually done on the property.

There is in this interpretation of the contract no substitution of anything for the "physical test," and the test to be used is an accounting test, not an engineering test. The result, as nearly as may be, of "the same relative amount, character and durability of physical reparation" is definitely prescribed as the end to be attained. The primary comparison is one of amounts expended and charged, as

reflected by the books of account for the test period on the one hand, and for the period of Federal control or the guaranty period, as the case may be, on the other hand, as kept under the accounting rules which we have prescribed pursuant to section 20 of the interstate commerce act. It is recognized, however, by the proviso which we are directed to apply, that there are certain adjustments to be made in the accounts in order that the result may be as "nearly as practicable the same relative amount, character and durability of physical reparation" and "to make the income for the guaranty period properly comparable with the test-period income as defined in the Federal control act."

The interpretation of the words "cost of labor" as used in paragraph (c) of section 5 of the standard contract must be productive of such result, and to this end the language must be reasonably construed to advance the object declared by Congress and to secure the benefits intended, and must be fairly applied to prevent hardship and injustice.

The test of the interpretation of the words "cost of labor" and of the application of the adjustments in this regard is, therefore, to be found in the inquiry as to what changes would have been effected in the accounts showing the expenditures and charges for maintenance during the test period, by substituting for the labor conditions of the test period the labor conditions of the period of Federal control or the guaranty period. This being so, it is clear that the adjustments can not be limited to the rate of wages per day or per hour of labor, but must include adjustment for every element of cost of physical reparation or material replacement or restoration, or of what has been referred to as "the labor cost of material in place." The adjustment must include not only changes in pay-roll prices or scale of wages, but also changes in working conditions, and, as far as practicable, in every other element on account of changes in which the expenditures and charges for maintenance on the carriers' books of account for the test period would have been changed by the substitution of the conditions of the period of Federal control or of the guaranty period for the conditions of the test period. The carriers must be required to produce the adequate proof, but on production thereof, they are entitled to its benefit.

A greater allowance than this would be unjust to the United States; a less allowance than this would be unjust to the carriers; any different allowance than this would fail to effectuate the purpose of the act; and the burden of making the correct allowance is by paragraph 3 of subdivision (f) of section 209 of the transportation act thrown upon us, and we must arrive "as nearly as practicable" at the allowance which the proviso contemplates.

As to maintenance, the guaranty of section 209 of the transportation act is, substantially, insurance of an allowance sufficient to effect at guaranty period cost and under guaranty period conditions the replacement or application, in maintenance, of the same amount of property which was replaced or was applied in a corresponding portion of the test period, and insurance of a proper allowance for depreciation and retirement, determined upon inquiry as to whether or not, under the accounting rules of the commission and the carrier's practices, the charges for depreciation and retirements would have been affected during the test period by any changes in scales of wages and working conditions, and in cost of material, and proper adjustments must be made in each case for changes in amount of property maintained and for changes in use thereof substantial enough in our opinion to be considered.

Accordingly it should be concluded that the changes in "cost of labor" which must be considered embrace all changes of any character which are included in the labor cost of material in place and which, if applied to the operations of the test period, would have resulted in a change in the amounts shown on the books of the carrier as expended and charged, or as reserved, for maintenance purposes and debited to operating expenses.

Following this conclusion we should allow as maxima for maintenance in the guaranty period such amounts as would have provided in the test period under guaranty period conditions as nearly as practicable, under our accounting rules and practices, the same amount, character, and durability of physical reparation for a like amount of property as were provided for the property in an average six months of the test period.

POTTER, *Commissioner*, dissenting:

It is the direct command of Congress that in comparing amounts expended and charged in accordance with the proviso of paragraph (a) of section 5 of the "standard contract" due allowance shall be made for *any* difference that may exist between the cost of labor and materials and between the amount of property taken over and the average for the test period, and for any difference in use between that of the test period and that of the guaranty period which in our opinion is substantial enough to be considered, "so that the result shall be, as nearly as practicable, the same relative amount, character, and durability of physical reparation."

I dissent from the majority report. I concur in that part of the dissenting report by COMMISSIONER DANIELS wherein, upon a careful historical review of the legislative history of the act, he demonstrates conclusively that the carriers are entitled to "the same rela-



tive amount, character, and durability of physical reparation," which can only mean the cost of material in place.

The majority report admits that we are charged with the duty of determining the amounts payable by the United States under the guaranty referred to and that we were given certain specific directions governing the method of determination. It quotes the provisions of law which I have stated. It neither determines nor tells how to determine allowances for differences in costs of labor and materials, allowances for differences in amounts of property maintained, or allowances for differences in use of property. It deals with a bugbear of inefficiency of labor which is only a man of straw.

We have apparently all been guilty of too loose use in our discussions of the phrase "inefficiency of labor" as affecting the amounts due to the carriers under the Government's guaranty. Now that the time has arrived for expressing conclusions in final report we should be careful to see that our precise meaning is understood. I do not know whether, even now, the majority and the minority are in accord as to what "inefficiency of labor" or "effectiveness or quality of labor" means as used in the majority report.

When the phrase "inefficiency of labor" is used in the offensive sense of slacking or dereliction of labor, implying a falling short of labor in its duty, it means one thing. When it is used for the purpose of saying there is to be considered as included and covered by the phrase, the changed effectiveness, whether reduced or increased resulting from the changes in terms and conditions under which labor worked and bringing about an increased or decreased actual cost per unit of accomplishment it means another thing. My contention and I think the contention of the others in the minority is that when used only in the latter sense, and not in the offensive sense, allowance should be made to the carriers for expenditures made under such changed terms and conditions. The majority report is not clear as to whether it is intended to deny allowance to the carriers for such portions of their actual expenditures as resulted from such changed terms and conditions. It is chiefly upon the theory that the majority report would refuse to allow expenditures made necessary by such changed terms and conditions or that it fails to pass upon the question that I dissent. As the subject under consideration has been brought before us, we are not called upon to pass upon any claim of the carriers based on the alleged inefficiency of labor, where such phrase is used in the offensive sense referred to. It is therefore not to be inferred that if this question were before us the majority and the minority would disagree. It is obvious that there is much doubt as to whether such a claim would be susceptible of adequate proof. The distinction between the different meanings of the phrase "inefficiency of labor" was drawn directly to our attention and to the



attention of the parties in the hearing in this case, which was had on December 4, 1920, when our director of finance outlined the issues as follows:

These, then, gentlemen of the Commission, are the principal questions that occur: First, does the term "cost of labor and material" include any other elements than price?

Does the term "so far as practicable" in the law contemplate the use of elaborate formulas or does it contemplate broad settlement along ordinary business lines?

Are the adjustments provided in paragraph (c) applicable to payments into funds; that is, to reserve charges, or are they limited to actual expenditures?

In the discussion of those three large questions and other questions that may come up, I think it well to invite the attention of the Commission to a confusion of terms which has arisen with respect to the efficiency of labor. There has been a great deal of objection on one side to the consideration of the efficiency of labor, and there has been discussion on the other side insisting that efficiency of labor should be considered. I think it would be conducive to clear thinking if we should forget the term "efficiency of labor" which carries with it the idea that somebody has been derelict in one period as compared with another period, and substitute the words "effectiveness of labor." I believe that clear thinking may somewhat be helped by substituting for comparisons the efficiency, the cost or price, if you wish to use it in that term, of the effective unit.

To illustrate what I have in mind, without expressing any opinion in the matter, the engineering section of the Bureau of Finance has worked up a comparison of effective costs based upon pure assumptions, *one of the assumptions being that the efficiency is the same in the two periods*. It is the cost of replacing ties, the labor cost of replacing ties. *In this illustration it is assumed that the efficiency in both periods is the same*; that is, that one man will put in track one cross tie per effective hour of work, and because of other conditions not relating to individual efficiency, because of the fact that out of 10 hours work a section man necessarily devotes part of the time to opening up the track and part of the time to making the track safe after the work has been completed, and because of the fact that a certain amount of time has to be lost by trains passing, which is counting on the payroll hour, but not counting on the effective hour, and the effective hour work of that man may be reduced as in the illustration here shown, out of a 10-hour day to 7.91 hours, and when we come down to the 8-hour day, the lost time is about the same, the lost time is relatively a larger part of the total time than it is in the 10-hour day. So, coming down to the 8-hour day and adjusting so as to have only 8 trains passing during the 8-hour day as against 10 trains passing in the 10-hour day, and assuming the same time for opening and closing tracks, and taking into consideration an assumed condition under which the men under the 8-hour rule are also paid for the time going to and coming from work, we arrive at an effective day, in the 8-hour day proposition of 4.583 hours. So computing, the engineering section of our Bureau has shown that taking the actual labor cost of putting a tie in track, *upon the assumption of the same efficiency, one tie per effective hour per man*, the ratio of the test period to the guaranty period will be 2.447, while the ratio on the average unit (of payroll time) would be only 1.8407.

I submit this merely for the purpose of illustration of what is meant by the use of the term "effective hour" or cost of effective labor in lieu of the objectionable term "efficiency of labor."

A copy of the statement referred to by our director of finance is attached hereto as Appendix A.

This statement, modified to show comparisons of cost per effective hour of labor, including foremen's supervision, instead of comparison of costs per crosstie put in, as shown in Appendix B attached hereto, was used as an appendix in one of the earliest tentative reports submitted for our consideration of this question.

In order to avoid the necessity for my dissent I have pointed out to my associates voting with the majority that the inefficiency of labor which is made the very gist of their discussion is not in any sense, and certainly not in the offensive sense in which used by them, in issue in this case. I have been unable to secure the correction of the report in this regard and am therefore put to the necessity of showing the real issues by a review at some length of the history of the case.

By a notice issued on June 14, 1920, we invited the carriers to submit briefs setting forth their views with respect to the interpretation and application of the proviso in paragraph (a) of section 5 of the "standard contract" in its statutory relationship to paragraph (3) of subdivision (f) of section 209 of the transportation act, 1920. And on August 5, 1920, we requested an expression of the views of the United States Railroad Administration regarding the proper construction of this proviso. Briefs and reply briefs were filed on behalf of the United States Railroad Administration and on behalf of the Association of Railway Executives and on behalf of particular carriers.

In the brief of the Association of Railway Executives, first filed, no issue, not even any mention, was made of an allowance for inefficiency in adjusting labor costs. The contention of the carriers was that:

Paragraph (c)—the paragraph controlling the method of adjustment of differences in cost—requires that the same relative quantum of maintenance, of the same relative character and durability, as that of the test period, shall be put upon the property during the contract period.

And in the recital of certain of the here immaterial negotiations preliminary to the formation of the contract, reference was made to a change from "price" to "cost" but no mention was made of "inefficiency."

The question of inefficiency was first introduced by the following statement on page 3 of the written expression of "Views of the United States Railroad Administration," filed by the then director general:

It is said by the carriers that in making the comparison contemplated by the proviso "due allowance" must be made not only for differences between the cost of materials and the cost of labor, i. e., the wage scales, as between the periods compared, but also for an alleged lowering of the efficiency of labor.

What the carriers did say is represented by the following quotation from pages 32 and 33 of the brief of the Association of Railway Executives:

The effort of the Commission will therefore be to ascertain how much maintenance, expressed in quantity and character, was put upon the property on the average annually during the test period—how many ties, how many tons of rail, how many cubic yards of ballast, etc.—and also the average annual expenditures for maintenance so as to include matters of maintenance not ascertainable in units. These must be adjusted to a period of time corresponding to the six months' guaranty period.

The cost of this quantum of maintenance under the conditions of the guaranty period must then be ascertained, so far as the quantum is ascertainable, and the expenditures for maintenance work, not ascertainable in quantity or units, must be adjusted to the guaranty period level of prices, the sum of these two being the adjusted allowance for maintenance during the guaranty period.

Adjustment should be made, however, so as to secure as nearly as practicable the same relative amount, character and durability of physical reparation for all items of maintenance as for the average of the test period.

It is submitted that, for the purpose of ascertaining the Government's obligation under its guaranty, this aggregate is, under the statute, the amount which the carrier may include in its operating expenses for maintenance during the guaranty period.

We respectfully suggest that the practical work of making the necessary adjustments in figures be taken up between representatives of the Commission and accounting and engineering officials of the carriers (the personnel of which latter we will, at the request of the Commission, be glad to designate), so that a well considered report may be made to the Commission for its action.

The director general clearly had reference to impressions of controversies in another forum. The carriers had not made before us any allegation or claim of inefficiency as affecting the adjustment of labor costs.

The first direct allegation of an inefficiency of labor in connection with our present case was made on pages 5 and 6 of the "Views of the United States Railroad Administration," as expressed by the then director general, as follows:

To take a single example, track labor was known to vary widely in character and efficiency in different parts of the country. In one part of the country "native," in another negro, in others drawn predominantly from Mexican, Italian, Japanese or other immigrant stocks, it was, in nearly all, very likely to be primarily "hobo."

And on pages 15 to 20 of his brief the director general himself, and not the carriers, first made reference to the question of efficiency as discussed in the preliminary negotiations.

In reply to brief of the Director General of Railroads counsel for the Association of Railway Executives set forth their position as follows:

The carriers say that the final test of the adequacy of expenditures as made by the Director General under the proviso is whether or not the result was in  
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each year of Federal control "as nearly as practicable the same relative amount, character, and durability of physical reparation."

And while necessarily referring to inefficiency in response to the arguments of the director general counsel for the carriers carefully and repeatedly added "any and all other costs in excess of the amount produced by equating only the price of labor and materials" or similar phrases, so as to indicate that their claim was not based upon an alleged lowering of the efficiency of labor but was founded upon the right of allowance of all costs necessary to effect the same relative amount, character, and durability of physical reparation, whether or not such costs could be measured by a comparison of wage scales.

As illustrative of some of the elements of costs not measurable by wage scales, the carriers referred to conditions of work and bases upon which payments were made or required to be made according to orders and agreements of the director general as follows:

Many carriers prior to Federal control used a piece-work basis for compensation of shop and some of their other employees. Many other carriers had bonus systems based upon piece-work studies, and yet other carriers had other bases for securing a day's work for a day's pay. The ten-hour day generally prevailed among maintenance employees, and particularly roadway and track maintenance men. The bases above referred to and other similar bases were discarded by the Director General and a basic eight-hour day adopted, and a flat rate per day or per hour of compensation, with overtime pay, in many cases punitive, was substituted. Maintenance of way employees prior to Federal control went to and from their employment on their own time. Under article 10 of supplement No. 8 to General Order 27 dated September 1, 1918, and effective that date, section men were assembled and went to and from a designated point on the company's time. The result of the establishment of a standard eight-hour day reduced the actual working hours of the section men from ten to eight hours, and their traveling from a designated point to and from their work on the company's time reduced the actual working time approximately another hour, with the result that the actual working day of the section men was reduced from 10 to 7 hours. Under item 4 of supplement No. 7 of General Order 27, effective September 1, 1919, article 11-B, it is provided:

"When employees are notified or called to work outside of the established hours they will be paid a minimum allowance of three hours."

From October 20, 1919, under rule 60 of the National agreement with railroad shop employees one hour extra allowance was made to each employee each week regardless of the number of hours worked during the week where the employee was required to check in and out on his own time. This had particular reference to shop men. These are mere illustrations of the effect on the cost to accomplish a particular unit of physical reparation resulting from the Director General's orders and as demonstrating the unfairness of limiting the adjustment required by paragraph (c) of Section 5 of the wage or price of labor.

We, being of opinion that additional discussion should be had of the matter, held a hearing before the entire commission for this purpose on December 4, 1920, at which time the confusion with respect

to the inefficiency of labor was drawn to our attention in the statement of our director of finance from which I have above quoted. A proposed report was brought forward on May 19, 1921. At about the same time our director of finance was instructed by division 4 to bring forward a report or reports in a special case or in special cases, and was directed for the purpose of arriving at a tentative basis for making these reports to confer freely with representatives of any carrier or of such of the carriers as might desire to be represented. Pursuant to these instructions our director of finance immediately invited conferences with carriers desiring settlement of amounts due them under the guaranty of section 209 of the transportation act, 1920, and such conferences were held, at which were present not only representatives of the individual carriers interested in particular claims but also representatives of the adjustment committee of the Association of Railway Executives, and in some instances representatives of the United States Railroad Administration. As a result of days of patient and industrious application on the part of the engineering, accounting, and legal representatives of our bureau of finance, including the director himself, in connection with the qualified representatives of the carriers, a plan of settlement was, subject to the approval or disapproval of the commission, agreed upon which, according to the consensus of opinion, was lawful, simple, workable, and fair alike to the carriers and to the United States. In the development of this plan many contentions of the carriers, or principles upon which they based claims for substantial sums, were denied. The basis of this plan is, as the law requires, a comparison of actual expenditures and charges shown on the carrier's books of account for the guaranty period under our accounting rules, with expenditures and charges so actually entered and appearing on the books of the carrier under our accounting rules for the test period. The adjustments for differences in cost of labor and material made under the plan are, in accordance with law, based upon *actual expenditures* in the test period and *actual expenditures* in the guaranty period, all as entered and shown on the books of the carriers under the accounting rules prescribed by us pursuant to section 20 of the interstate commerce act.

In compliance with instructions, the director of finance brought forward as a basis for our determination of the general principles for the fixing of maintenance charges involved in this proceeding, with recommendation for approval, a report in the case of the Baltimore & Ohio Railroad Company, which involved all of the principles as to which a determination was required, and which was based upon the plan tentatively agreed upon between our bureau of finance and the carriers. I think it is very unfortunate that we did



not follow the course thus outlined and render our decision in a concrete case, rather than adopt the practice of making an announcement in the abstract. Our duty is to make actual determinations in settlement of actual cases. I doubt the wisdom of our present course and am afraid that the announcement of general rules will be unjust to the particular cases that must follow. I will use the Baltimore & Ohio and other cases for illustration purposes.

This proposed method of settlement, then, which was applied to the Baltimore & Ohio situation, and not any contentions which may have been made in the past, if any were made, as to efficiency or inefficiency of labor, is the real question now before the commission for determination. One of the substantial results of the conferences held between representatives of our bureau of finance and the representatives of the carriers was the practical waiver by the carriers, in order to arrive at a fair and business-like settlement, of the question of any claims for adjustment of "payment into funds" or depreciation, or retirement charges for differences in cost of labor or material, thus eliminating this large question as an issue in the case.

With the exception of the treatment of depreciation in respect of which our bureau of finance had reached a tentative agreement with officials of the carriers representing over 90 per cent of the mileage of the country, the majority report does not determine the propriety or impropriety of a single step in the plan of settlement proposed, and in respect of depreciation the plan prepared is approved by the majority.

There are not before us the events of the Federal control period, with its larger aspects, and we are not concerned with the contentions of the carriers in their relation to the director general. We are dealing only with the guaranty period, and with the issue as it exists at the present time, when, as a result of protracted discussions between our bureau of finance and the carriers, their requests for allowances stand as reduced and abandoned by many, many million dollars. Whatever extreme claims the carriers have, or have made before the director general, based on the alleged inefficiency of labor, such claims are not before us and it is idle for us to determine such an issue.

It is well to note the difference between our function and that of the director general. His duty is to make settlements, which involve the adjustment of disputed claims, and he has a broad discretion in the performance of his duty. Our duty, imposed by the statute, is to make determinations of amounts due. He may make compromises. We may not, except with respect to one relatively unimportant item. His natural course of procedure is to call on the carriers to present their "claims," upon which to negotiate and arrive

at a final agreement. We do not ask for "claims" but only for information furnished upon forms which we provide; and upon information so obtained or otherwise secured where necessary, we must find the amounts due. It is said that in their claims made against the director general, the carriers have asked for allowances because of inefficiency of labor. No such claim is made before us respecting the guaranty period. The director general may have opportunity to render great public service in rejecting such claims. We have no such opportunity. There has been no controversy among us as to how such a claim should be treated, and no difference of opinion has been expressed. If the director general is unable to agree with the carriers their claims may ultimately come before us for determination, and if they involve an alleged inefficiency of labor we will then have to pass upon that question, but it is not before us now respecting the guaranty period. I presume it was because the Congress thought the director general's conclusion might be wrong that he was not given the final say. As to the guaranty period, we have requested the carriers to furnish the needed information. They have furnished much information and are furnishing more. By conferences and discussions between the carriers and our bureau of finance much progress has been made toward a common understanding and in the elimination of controversy. Such progress has been made in the case of the Baltimore & Ohio Railroad Company that that carrier is now willing to accept, in the interest of a prompt adjustment, approximately \$9,000,000 less than it has urged it is entitled to. It is prepared to accept our view on points involving this amount, if we will act promptly so that it can get funds which it urgently needs. The bureau is asking us to pass upon and determine certain questions, and the question regarding "inefficiency of labor" is not one of them. In the first place, that question never was in the situation as to the guaranty period, and, in the second place, if it ever was an issue, it has been rejected by the bureau of finance and abandoned and withdrawn by the carriers. This phantom issue is the only question which the majority report clearly decides.

If the claims of carriers respecting the Federal control period were before us, it would not be strange if our conclusion did not accord with the contentions of the director general respecting such claims. Called upon to oppose what he regarded as excessive claims by the carriers, in negotiations designed to result in compromise and settlement, there is a well-known trading attitude which it would be natural for him to adopt, notwithstanding a fixed determination to be fair. With the carriers and the director general making contentions for opposite extremes, it would not be surprising if our conclusions should lie somewhere between the two. Therefore, if the car-



riers contended that because of inefficiency of labor they should be allowed large amounts in excess of actual expenditures, and the director general claimed that he should not be chargeable with expenditures made because of the inefficiency of labor and, therefore, that the carriers should be allowed considerably less than actual expenditures, we might conceivably decide against both contentions of inefficiency and hold that in fairness the carriers should be allowed, not more or less, but their actual expenditures made in good faith while trying to do the best they could. This is the minority contention respecting the guaranty period.

The plan for fixing the maximum amount of maintenance expenses pursuant to the provisions of paragraph (3) of subdivision (f) of section 209 of the transportation act, 1920, which was recommended by our bureau of finance and concurred in by the representatives of the carriers in conference, and which I contend should have been adopted, is, in part and respecting the matters now in controversy, as follows:

*Maintenance of way and structures; adjustments for differences in cost of labor and material:*

1. There shall first be ascertained the total amounts actually expended and charged for maintenance of way and structures and shown on the books of account of the carrier under our accounting rules for the average six months of the test period and for the guaranty period, respectively.

2. There shall next be deducted from the total charges for maintenance of way and structures for the average six months of the test period the following elements, as to which allowance for increased cost of labor and material will not be made by us for the reason that the accounts of the test period in respect of these elements would not have been increased by the substitution in the test period of the costs of labor and material actually realized in the guaranty period: (a) Depreciation, (b) retirements, (c) fire losses, (d) insurance, (e) injuries to persons, and (f) assessments for public improvements. (This process results in the elimination of many millions of dollars.) There are also deducted at this point overhead expenses such as superintendence and stationery and printing and "other expenses" for the reason that it is not practicable to adjust these overhead accounts for direct changes in cost of labor and material and these accounts are separately adjusted. There are also deducted for separate treatment joint-facility accounts, as these accounts represent mere payments by one carrier to another and the debits should equal the credits in the long run. The remainder, after these deductions, is the net labor and material actually used in the maintenance of way and structures and to be adjusted for differences in cost of labor and material.

3. The remainder representing the material and labor actually expended and charged to maintenance of way and structures in the test period shall then be divided so as to ascertain separately the amounts of material, and the cost thereof, utilized during the average six months of the test period in maintenance of track and maintenance of structures, respectively. These amounts shall be separately equated to guaranty-period prices to ascertain the amounts of material allowable for maintenance of way and structures during the guaranty period. This equation to guaranty-period prices is made substantially in accordance with the plan followed by the director general.

4. In order to determine the allowance for labor our bureau of finance ascertains the actual labor cost of applying a dollar (the accounting unit) of material in the guaranty period by dividing the dollars actually paid for the labor applying material in the guaranty period by the dollars of material actually applied in the guaranty period. The plan of adjustment that would be involved in carrying out the majority report is far more complicated and in far less direct relation to the accounts than the plan for which I contend. The director general on page 11 of his brief says:

When, therefore, the parties wrote in paragraph (c) that due allowance should be made for the increases in the cost of labor and materials, they must be taken to refer to factors which are as certain, as simple, and as capable of mathematical appraisal and application as those involved in the comparison stated by the proviso to 5(a). That comparison, it may be repeated, is a comparison of the aggregate amounts of money expended as shown by the books.

The plan for which I contend complies literally with this pronouncement of the director general.

5. To the allowances for labor costs adjusted for differences in cost of labor as shown by the actual expenditures and material costs adjusted for differences in cost of material, thus arrived at, there shall be added back the amounts of depreciation and other elements which were deducted from the accounts for the test period and as to which no adjustment for differences in cost of labor and material is allowed. These last items are adjusted as may be necessary for differences in amount of property used and for differences in use thereof and as may be proper upon consideration of the actual transactions and expenditures of the carriers in each case, all as reflected by the books of the carrier. The allowances for depreciation will be computed upon the same rates as were used in the test period and not upon any increased rate which may be claimed by the carriers. In cases where the charges for material and labor expended during the guaranty period as shown on the carrier's books, plus the charges for depreciation and other payments into funds shown on the books of the carrier, are in excess of the total so arrived at, considering

maintenance of way and structures and maintenance of equipment as a whole, *the excess will be disallowed*. In cases where the amounts expended and charged, as shown on the books of the carrier, *are less* than the maximum amount so fixed the carrier will notwithstanding this fact be *limited to the amounts shown on its books of account under our accounting rules*.

*Maintenance of equipment; adjustment for differences in cost of labor and material.*—The same procedure provided for in respect of maintenance of way and structures shall apply to adjustments for maintenance of equipment. Separate ascertainment will be made as to labor and material under head of maintenance of equipment for the following elements: (a) Steam locomotives, (b) other locomotives, (c) freight-train cars, (d) passenger-train cars, (e) work equipment, (f) floating equipment, and (g) miscellaneous equipment or such combination of elements (a) to (f) as may be necessary in making this ascertainment. Superintendence will be apportioned between the elements on basis of the ratio that the labor in each element, respectively, bears to the total thereof.

*Adjustments for differences in amounts and use of property.*—I do not here set forth the provisions of the plan for making those allowances which the law requires for differences between the amount of property taken over and the average for the test period and for any difference in use between that of the test period and that of the guaranty period, which in our opinion is substantial enough to be considered. I omit these provisions for the reason that they are not pertinent to the real matter in controversy, which relates solely to the interpretation of the words "cost of labor" as they are used in paragraph (c) of section 5 of the "standard contract" and to the allowances for differences in such cost of labor which are to be made pursuant to law.

The majority report devotes considerable space to a discussion of inefficiency in certain negotiations preliminary to the formation of the "standard contract," although it admits that these "would not ordinarily be of weight in determining the meaning of the written instrument finally agreed upon." As COMMISSIONER DANIELS has said in his dissent, the negotiations respecting the form of the contract were not dealings in the ordinary and usual sense between the parties to the contract. The contract was submitted to the individual carrier for its acceptance or rejection as it read. The alternatives were signature or lawsuit. The rule is to be applied to all carriers whether they signed or not. The contract is to be interpreted solely in the light of the law under which it was formed. The carrier in the case submitted having expressed its willingness to settle upon the agreed plan to which I have referred, any issue in the case must rest

in a comparison of that plan with the proviso construed according to law. One will seek in vain for any issue as to inefficiency in such a comparison.

The discussion in the majority report to the effect that the guaranty was not founded upon a legal obligation but upon a sense of fairness and the discourse upon the *maximum* compensation features of the transportation act and upon the liberality of compensation under Federal control are irrelevant and irresponsible to any issue in the case. It would be to misapprehend our relation to the subject matter and our power in the premises, to question the wisdom or expediency of congressional action or in substance to effect a modification or repeal of law. If the net benefits or losses to the carriers arising out of the transportation act were of importance in deciding any issue before us, response might appropriately be made that the rate needs of the carriers under section 15a of the interstate commerce act resulted in a deficiency of nearly \$285,000,000 for the first five months of this year as compared with the returns which the act contemplated. The following is a statement furnished by our director of statistics showing the earnings of Class-I roads by months, January to May, 1921, compared with the estimated return on investment:

Period.	Net railway operating income.	Monthly test-period percentage relation to annual income.	Estimated annual earnings represented by monthly earnings.	Per cent of return on 18 billions investment.	Approximate deficiency below proportion of 6 per cent on 18 billions.
		<i>Per cent.</i>		<i>Per cent.</i>	
January, 1921.....	<i>Def. \$958,399</i>	6.12	.....	.....	\$67,048,000
February, 1921.....	<i>Def. 7,378,307</i>	5.14	.....	.....	62,878,000
March, 1921.....	30,695,192	7.48	\$410,400,000	2.28	50,009,000
April, 1921.....	29,248,874	7.41	394,700,000	2.19	50,782,000
May, 1921.....	37,080,654	8.59	431,700,000	2.40	55,690,000
Five months.....	90,332,121	34.74	260,020,000	1.44	284,900,000

But although the carriers' losses for five months here indicated are probably larger than the entire amount involved in any controversy as to maintenance allowances for the guaranty period, this fact should not affect our decision. The question of sympathy or relief is one to be determined by Congress. Our action must be moulded only by considerations of the law which Congress has prescribed. Whatever may have been the rule for Federal control, the guaranty of section 209 of the transportation act is a guaranty of *full* income and as asserted by the majority "the guaranty of section 209 is independent of any claims arising out of Federal control." But, says the majority, under the interrelated income and maintenance features of the Federal control act and of the "standard contract" the Government in effect guaranteed no more than the same relative

amount of maintenance for the guaranty period, as the carrier spent for the test period and that "for present purposes the importance of this is to show that the upkeep provisions of the 'standard contract' did not provide, in and of themselves, for the return of the property in all cases in as good condition as when received." With this conclusion COMMISSIONER DANIELS disagrees. I content myself with the observation that this discussion in the majority report, so far as the determination of any controversy is concerned, does not touch our present disagreement. The proposed plan now before us and in accordance with which the carrier is willing to make final settlement is based precisely upon the principle stated in the majority report. In the proposed report brought forward by the bureau of finance but rejected by the majority the following appears:

There is no requirement of upkeep of the properties during the guaranty period nor of their return at the close of the guaranty period in substantially as good repair and complete equipment as they were in at the beginning of the period. For the comparison of the condition of the property at the beginning and at the end of the period—of Federal control or of guaranty, as the case may be—there is substituted a comparison of amounts expended and reserved during the test period with amounts expended and reserved during the guaranty period. The comparison of the condition of the property at the beginning with its condition at the end of the period could have been effected only by engineering inspection. The comparison of expenditures and amounts reserved in one period with expenditures and amounts reserved in the other period can be effected by a comparison of accounts. This comparison to be effective and proper must be according to the same rules or standards in the two periods, and it is desirable that these rules or standards be definitely prescribed. These results are obtained by reference in the proviso to "the accounting rules of the Commission" \* \* \* "during the test period."

The familiar principle announced in the *Hermanos* case cited in the majority report is not applicable to an interpretation of the standard contract. The necessity for the "long continued" construction of a statute which the majority opinion treats lightly is the very essence of the decision referred to. Not only is "long continued construction" lacking in this case but as a matter of fact there has never been any general acquiescence. The present controversy is due to the fact that the other parties interested do not accept the director general's construction and the general principle involved has never been settled by any administrative body. The director general is not an administrative agency charged with the construction either of the statute or of the contract. As regards the contract, he is a contracting party and the contract itself provides for its interpretation in case of dispute by an administrative body, which is this commission, with final appeal to the courts upon questions of law. The principle that the director general, a contracting party, would be permitted to interpret or construe his own contract would be an anomaly in the law.



The use of the word "wages" in our letter to the President which preceded the formulation of the contract, the discussions preliminary to the formation of the contract, the promulgation of the contract in its final form were all long prior to the establishment by the national agreements of the conditions and methods of payment for labor which are the chief cause of the increased costs now in controversy. The letter from Director General Hines to Chairman Townsend referred to in the majority report was written before the effect of the national agreements on the cost of labor could possibly have been in mind. What would be the result of the national agreements was unknown when the transportation act was passed. It is not conceivable therefore that this commission, the director general, or the Congress contemplated that the use of the word "wages" should deny the carriers the right to added costs of labor imposed by the national agreements. The Congress did not intend a repudiation of the obligation given in the proclamations of the President and repeated in the Federal control act.

I now come to the matter of real difference. It is stated in the majority report that "the controversy centers over the meaning of the words 'cost of labor' as they are used in paragraph (c) of section 5 of the 'standard contract.'" The majority states that as it understands the opposing views "the director general contends that these words mean only the rates of pay per unit for the recognized varieties of railroad labor, while the carriers contend that the labor must be related to the accomplishment of a given result and hence that the words include in their meaning quality as well as wages." The interpretation of the words "cost of labor" as they are used in paragraph (c) of section 5 of the "standard contract" and the allowances for differences in such cost of labor which must be made in order that the result shall be, as provided in that paragraph, "as nearly as practicable the same relative amount, character, and durability of physical reparation," constitutes the substance of my disagreement with the majority. The quoted statement of the carriers' contention and the entire argument of the majority report fail in my opinion to correctly state the carriers' position. A definite plan assented to by the carrier involved having been brought forward for determination, any issue in the case must rest in a comparison of that plan with the proviso of the "standard contract" which we are directed to enforce. One will seek in vain for any issue of inefficiency in such a comparison; and that there may be no quibbling over words or lack of clear thinking because of lack of clear and unambiguous definition, I assert that there will not be found in the comparison any issue as to "quality" of labor. A correct statement of the contention of the carriers is that differences in "cost of labor" include

other differences in addition to those which are measurable by wage scales. The majority by its decision has eliminated all allowances for any differences in labor costs which are not measurable by a comparison of wages whether such differences do or do not affect the "relative amount, character, and durability of physical reparation." The law requires that—

due allowance shall be made for *any differences* that may exist between the cost of labor \* \* \* and the average for the test period \* \* \* so that the result shall be as nearly as practicable the same relative amount, character, and durability of physical reparation.

The majority report deprives the carriers of an allowance which the law requires. All of the supposed difficulties of determining the allowances for factors which can not be measured by a comparison of wage scales, as well as for those which can be so measured, have been eliminated by the simple plan of adjustment proposed to us as a result of the joint endeavors of the representatives of our bureau of finance and of the representatives of the carriers who conferred with them. That plan is based upon a direct comparison of actual expenditures "included under the accounting rules of the commission in railway operating expenditures." It is a "simple mathematical or accounting method" such as the director general insists must necessarily be substituted for "physical comparison." It affords the "automatic correction" referred to in our letter of September 3, 1918. It is independent of opinion and of "engineering inspection." It is neither "indefinite" nor "intangible," and therefore it escapes "the very limbo of controversy and conflict of opinion which it was designed to avoid."

It is not based upon any assumption or claim of inefficiency. On the contrary, if we assume, as we must in the absence of proof to the contrary, that there was no inefficiency of labor and that there was no change in the quality or effectiveness of labor, then the plan proposed allows not a cent for inefficiency.

I have said that construed, as I fear it will be construed to mean, that no allowances will be made for any differences that may exist between the cost of labor in the guaranty period and the average for the test period which can not be measured by a comparison of wage scales, the decision of the majority violates the law. There are substantial differences, running into the millions of dollars, that exist between the cost of labor for the guaranty period and the average for the test period which can not be so measured, but which affect the relative amount, character, and durability of physical reparation, and the law requires that due allowance shall be made *for any such difference* that may exist. Of these changes which substantially affect the labor cost of physical reparation and which can not be measured by a comparison of wage scales, the most important are those which



arise from changes effected by the so-called national agreements between the director general and the several organizations of railroad employees. No question of inefficiency or slacking of labor is involved in them.

It is provided by section 312 of the transportation act that—

Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decision of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act, in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920.

In decision No. 2 of the United States Railroad Labor Board, rendered on July 20, 1920, and granting increases to classes of employees shown therein, the following appears:

The board assumes as the basis of this decision the continuance in full force and effect of the rules, working conditions and agreements in force under the authority of the United States Railroad Administration.

The cost of continuing in effect the "rules, working conditions and agreements" of the director general, otherwise referred to as the "national agreements," *not the efficiency of labor*, represents the chief difference between the cost of labor for the test period and the cost of labor for the guaranty period which can not be measured by a comparison of wage scales and for which I contend proper allowance must be made under the law when passing upon expenditures actually made by the carriers and actually shown on their books of account, under our accounting rules, as a basis for ascertaining railway operating income, or any deficit therein, for the purposes of the guaranty.

*National agreements.*—Among the changes effected by the "national agreements" which can not be measured or determined by a consideration of wage scales only and for a recognition of which in determining the increased "cost of labor" I contend, are the following:

(1) *Abolition of piecework.*—The prohibition of piecework by rule 1 of the shopmen's agreement, which requires that all employees shall be paid on the hourly basis. It has been estimated that the loss to the Pennsylvania Railroad resulting from the abolition of piecework and the adoption of the hourly wage scale instead amounts to about \$15,000,000 per year. I do not know whether this amount is correct or not, and I do not propose any allowance on basis of any such estimate, but it is evident that the amount involved in this item is substantial, and I do contend that allowance for such difference in cost must be made when shown to have been expended under our accounting rules and to have been actually a part of the cost of labor. I further contend that the plan proposed in the Baltimore & Ohio

case effects just this result and no more. In an analysis of labor costs submitted by the Baltimore & Ohio Railroad Company in the special case presented for our consideration it is claimed that in the maintenance of steam locomotives alone the abolition of piecework resulted in an added cost of labor of \$597,927 for the guaranty period; that the same item in respect of passenger-train cars resulted in an added cost of \$251,226; and in the case of freight-train cars in an added cost of \$838,766. I do not propose that these amounts should be allowed because of the special engineering studies made in connection therewith, but I do say that whatever amount of added labor cost resulted from this requirement and whatever actual expenditures were necessitated for these causes, such actual expenditures should be allowed; and that under the accounting rule imposed by the proviso it is proper to measure the allowance for these actual expenditures by the accounts of the carriers kept in accordance with our instructions subject to any check or verification that we may desire at any time to make.

(2) *The eight-hour day.*—The application under rule 1 of eight hours as a day's work regardless of special circumstances of operation such as may arise under branch-line conditions, in light-traffic territories, etc. The effect of the establishment of the eight-hour day even under normal conditions is illustrated by the calculations shown in Appendices A and B attached hereto, and it is obvious that under special circumstances which may arise in the operation of branch lines and under conditions of light or intermittent traffic, these results are greatly accentuated. I contend that if, as shown in the illustration in Appendix A, upon the assumption of the same efficiency the labor cost of putting one crosstie in track in the guaranty period is 2.447 times the cost of putting one crosstie in track in the test period, the ratio of 2.447 to 1 is the ratio in which adjustment for changes in the labor cost of putting crossties in track must be made. The position taken by the majority is that regardless of this fact under the illustration given the ratio of adjustment is only 1.8407 because that is the ratio established by a comparison of wage units of the two periods. The majority report contemplates a comparison of wages according to rates per hour. There is no justification of the adoption of a comparison of rates per hour as against rates per tie or rates per piece or rates per other unit of accomplishment, and in view of the provision of the statute that the result shall be the same measure of physical reparation it would seem that a comparison of rates per tie or per other piece affords the better basis of making the comparison which the statute requires. But even if the comparison should be of cost of time units in one period with cost of time units in another, the comparison should be

on basis of time units actually worked or effective time units and not time units constructively worked and paid for. As shown by Appendix B, the results in the circumstances indicated, of comparison of effective time units upon the same basis of efficiency are the same as the comparison of cost of physical units applied.

(3) *Application of same standard time for shifts regardless of different conditions of operation; forbidding of overlapping shifts in disregard of peak conditions; etc.*—Time paid for but not worked because of conflict of the arbitrary uniform and fixed provisions of rules 2, 3, 4, and 5 of the shopmen's agreement with the requirements of a fluctuating or varying business. Rule 2 provides that when one shift is employed, the starting time shall not be earlier than 7 o'clock and not later than 8 o'clock. Rule 3 provides that where two shifts are employed, the starting time of the first shift shall be governed by rule 2, and the second shift shall start immediately following the first shift, or at 8 p. m., and that the spread of the second shift shall consist of eight consecutive hours, including an allowance of 20 minutes for lunch within the limits of the fifth hour. Rule 4 provides that where three shifts are employed, the starting time of the first shift shall be governed by rule 2, and the starting time for each following shift shall be regulated accordingly, and the spread of each shift shall consist of eight consecutive hours, including an allowance of 20 minutes for lunch within the limits of the fifth hour. And rule 5 provides that the time established for commencing and quitting work for all men on each shift shall be the same at the respective points, but where three shifts are worked by running repair forces, and two shifts by back-shop forces, the quitting time of the first shift and the commencing and quitting time of the second shift of the back-shop forces will be governed by the provisions of rule 3. The carriers contend that the application of the same starting time for single shifts regardless of different conditions, the forbidding of overlapping shifts, the disregarding of peak conditions, which frequently require two or three shifts where one or two could otherwise take care of the work, represent increased costs of labor which can not be measured by a consideration of wage scales only. To my mind the contention of the carriers is absolutely sound.

For example, on a certain road at an interchange point where practically all of the business may occur between 2 p. m. and 10 p. m. the present rule requires the inspector to start between 7 a. m. and 8 a. m. and to be paid for about five hours before his real work commences, and nearly all of his actual service will be paid for at overtime rate unless a second man should be employed, with a possibility of an additional five hours' pay for a few minutes' work if held

beyond the ninth hour. And rule 2, it is alleged, makes it impossible to cover night work after 11 p. m. except by either employing a first and second shift in addition to the third shift, or else by paying exorbitant overtime to one or both of the other shifts.

(4) *Differences in overtime.*—Differences in methods of computing and paying for overtime in accordance with rule 6 as compared with methods observed during the test period.

(5) *The call rule.*—Extra payments under rule 7, known commonly as the call rule, which requires that for continuous service after regular working hours employees will be paid one hour for 40 minutes' service or less and shall not be required to work more than one hour without being permitted to go to meals, and that employees called or required to return to work will be allowed five hours for 3 hours and 20 minutes service *or less* and shall be required to do only such work as held or called for.

(6) *Punitive overtime payments.*—Punitive overtime and payments required to be made "whether working, waiting, or traveling" by rule 10, known as the emergency service rule. This rule requires straight time for the first eight-hour period, time and one-half for the second eight-hour period, and double time for the third eight-hour period in the first 24 hours, whether working, waiting, or traveling.

(7) *Penalty for calling men out of order.*—Penalties paid under the provision of rule 11 that "record will be kept of overtime work and men called with the purpose in view of distributing the overtime equally." It is alleged, for example, that Railway Board of Adjustment No. 2 in Docket No. 2043 required payment to four men for work not performed because another workman was called out of turn, although the man used had been used for the particular work for 20 years. Copy of Railway Board of Adjustment No. 2, Docket No. 2043, is attached hereto as Appendix C. The carrier involved was the Chesapeake & Ohio Railway Company and the statements of the employees' position and of the railroad's position bear out the allegation referred to.

(8) *Overtime paid on change of shift.*—Overtime paid under rule 13 when employees are changed from one shift to another, even when the change is made at the employees' own request to enable them to exercise seniority.

(9) *Extra pay when employee takes place of another.*—Extra pay under rule 16, which provides that "when an employee is required to fill the place of another employee receiving a higher rate of pay he shall receive the higher rate; but if required to fill temporarily the place of another employee receiving a lower rate his rate shall not be changed." It appears that this rule has been interpreted in a

number of cases to mean that the higher rate would apply continuously where men work only occasionally on work calling for the higher rate.

(10) *Limitation of reduction of forces under rule 27.*—This rule is as follows:

Rule 27. When it becomes necessary to reduce expenses, the force at any point or in any department or subdivision thereof shall be reduced, seniority as per rule 31 to govern; the men affected to take the rate of the job to which they are assigned.

Five days' notice will be given men affected before reduction is made, and lists will be furnished local committee.

In the restoration of forces, senior laid-off men will be given preference of re-employment, if available, within a reasonable time, and shall be returned to their former position; local committee will be furnished list of men to be restored to service; in reducing force the ratio of apprentices will be maintained.

(11) *Performance of work limited to specified crafts.*—Extra time required to be paid for under rule 32, which provides that "none but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except foremen at points where no mechanics are employed." As illustrative of the effect of this rule the following is taken from the statements made by the Association of Railway Executives conference committee of managers before the United States Railroad Labor Board at Chicago, Ill., January 10-18, 1921, in connection with the objections of the railroads to the various so-called national agreements, also objections to rules or working conditions requested by the various organizations:

Baltimore & Ohio Railroad: The following examples are taken from reports submitted by our Roundhouse Foremen:

"Immediately after the National Agreement went into effect, Tenderman Shop Committeeman Seymour stopped Machinist Welder Mosely from burning holes in tender truck channel bars for safety hangers, claiming same was tender work and that in the future no one from other crafts would be allowed to handle this work but tendermen.

"On Sunday, November 30th, Boilermaker Welder Zepp was the only man out to take care of welding. Engine 5225 was ready to be dispatched with the exception of a half-inch nipple to be welded in trailer box for water hose. Boilermaker Foreman Duvall told Zepp to weld nipple in, which he started but was stopped by Machinist Shop Committeeman Higginbotham. Zepp was afterward allowed to weld same as it was decided that this work came under pipe-fitters.

"I was notified that holes were to be burned in tender body bolsters for electric wire conduits. I told Tender Repairer Seymour to burn same. He returned to me saying that Boilermaker Shop Committeeman Jones stopped him, saying this work came under boilermakers.

"Saturday, December 6th, at 3:00 P. M., I notified the men that were to work the next day. Not having any welding or burning in sight for a machinist, I did not order a man from that craft. Machinist Mosely made the remark that he would fix the man that did any work belonging to his craft.



"December 4th, General Car Foreman Battenhouse sent 8 dining car equalizers to this shop to be reclaimed by building up the ends. He furnished a blueprint from which I found that it was important to have a first class job of welding, as when same was planed off to get a smooth surface, the cutting tool would in some places come right to the welding point. Knowing this would come under the carmen, I consulted Tender Repairman Seymour who in addition to being a Committeeman does the welding for tendermen. I told him that this was an important and a hurry-up job and that he was not capable of doing same, and asked if it would be satisfactory to work two first class welders in order to expedite the work and get a first-class job. He refused to let anyone touch them, saying he would have to consult the President of the Union and the Shop Committeeman at Baileys. To settle this matter, the equalizers were put in the blacksmith shop, delaying the work about five times as long as it would have taken to weld them electrically.

"On Sunday, December 7, Business Car 916 was in Bailey's for repairs to speed recorders. This work was formerly taken care of by Foreman Edmunds, but as it is now claimed by the machinist's craft, it was necessary to place Machinist Howard on the job, with Foreman Edmunds supervising. It was also necessary to have Carpenter Burgess remove a board from the floor of the car (which required about twelve screws to be removed) in order to get at the cord. Formerly one man performed all the work.

"Case of Engine 1610. In Riverside Shop, December 6th for staybolts. First Pipefitter and Helper removed injector and other pipes. Then Machinist and Helper removed both injectors; then Sheet Iron Worker and Helper removed jacket; then Carpenter removed lagging and running boards, after which Boilermakers removed and renewed staybolts, and the reverse operation as above to replace parts.

Formerly machinist disconnected and removed injectors and boilermakers removed jacket and lagging. Engine 1605 in Riverside Shop, December 10th for similar performance as above.

"December 7th, 1919, Pipe Foreman Carroll was stopped by Committeeman Vannosdeln from opening drop pit full of water.

"December 8th, 1919, Committeeman Deck would not allow band of Superheater units to be tacked with electric weld to prevent from slipping unless there was a pipefitter standing beside the welder claiming it was a pipefitter's work.

"December 7th, 1919, Committeeman Smith went to Foreman Gannon and would not allow him to work two Helpers Sunday, claiming they could not work two straight Sundays.

"November 21st, 1919, Committeeman Deck did not want pipefitter helper to dig small ditch 12 feet by 6 inches.

"October 2d, 1919, Committeeman Vannosdeln stopped tender men from taking lag screw out of clamp on burner so it could be removed.

"October 15th, 1919, Committeeman Deck would not allow tinner helper to hold copper joints in fire for the tinner to braze, claiming it was the tinner's job to do same.

"October 2d, 1919, Committeemen Roberts, Vannosdeln and Deck tried to stop me from allowing helper getting some brass to put in furnace to pour driving box brasses, claiming the man running the job should handle the brass.

"November 6th, 1919, Committeemen Deck and Vannosdeln after all work had been done by a pipefitter in pouring brass on driving boxes did not want me to allow helper to stand and watch the furnace while brass was being heated, claiming pipefitter should stay and watch same.

" July 10th, 1919, Committeeman Rinick stopped pipefitter from cleaning off a piece of sheet iron which was to be electrically welded on a tank, claiming it was boiler-makers' work.

" September 4th, 1919, Pipefitters Committee do not want the light-off man (Fire Builder) to hang blowers on engine for lighting, claiming there should be a pipefitter on this job.

" Engine 1868. Pipefitter Roberts refused to put drain cocks in air pumps, claiming that it was machinists' work.

" December 10th, 1919, Engine 2699, delayed about one hour waiting on Pipefitter to connect up blow-off fitting to blow engine for boiler wash. After pipefitter made connection, boiler washer connected up hose. These connections were formerly made entirely by the boiler washers, but the boiler washers are not now permitted to make their hose connections until after the pipe fitters make the connection to blow-off cock."

The Baltimore & Ohio Railroad Company in connection with the settlement of its claim under the guaranty now before us has submitted analyses and estimates showing the following increased costs of labor because of performance of work by specified crafts as required by the "national agreements":

In respect of maintenance of steam locomotives----- \$469, 711

In respect of maintenance of passenger-train cars--- 12, 346

(12) *Time paid for conferences.*—Time paid for but not worked because of the provision of rule 35 that conferences between the railroad officials and committees of workmen shall be held during working hours without loss of time to committeemen. The Baltimore & Ohio Railroad Company submits in connection with the special case now before us analyses and estimates showing the following costs for the guaranty period arising from the time of shop committeemen and employees on grievances and conferences paid for as required by the "national agreements" which can not be determined by a consideration of price factors or a consideration of wage scales:

In respect of maintenance of steam locomotives----- \$7, 905

In respect of maintenance of freight-train cars----- 4, 937

In respect of maintenance of passenger-train cars----- 654

(13) *Extra time for checking in and out and allowance for lunch.*—Extra time paid for under rule 60 which requires that when employees are required to check in and out on their own time they will be paid one hour extra at the close of each week, *regardless of the number of hours worked during the week.* The Baltimore & Ohio Railroad Company claims on basis of analyses of labor costs made by it that the following extra cost of labor was incurred by it during the guaranty period because of the allowance of 20 minutes per day for lunch and one hour per week for checking in and out, as required by the "national agreements":

In respect of maintenance of steam locomotives----- \$336, 578

In respect of maintenance of freight-train cars----- 105, 156

In respect of maintenance of passenger-train cars-- 23, 580



(14) *Extra costs due to reclassifications.*—Extra costs due to reclassifications under rules 62 and 79 according to which the following rough classes of work, which during the test period were generally performed by helpers and handymen as the nature of the work does not require the use of skilled mechanics, were during the guaranty period required to be performed by journeymen or skilled machinists and boiler makers:

**Rule No. 62.—Machinists.**

Spring rigging.  
 Brake rigging.  
 Engine truck work.  
 Steam pipes.  
 Removing superheater units.  
 Smoke-box fronts.  
 Hand railings.  
 Engine steps.  
 Hack and cutting off saw.  
 Rough-turning locomotive and car axles.  
 Dropping pedestal braces when stripping engines for repairs.  
 Dismantling engines for scrap.  
 Removal and application of rubber valves to water pumps.

**Rule No. 62.—Machinists—Continued.**

Operation of machines such as bolt threaders and all drill presses.

**Rule No. 79.—Boiler makers.**

Removing and applying steel running boards.  
 Removing and applying grate and grate rigging; ash pans.  
 Front end netting and diaphragm work.  
 Light repairs on tender frames (roundhouse repairs).  
 Repairing coal buggies.  
 Punching and shearing for shaping and forming.  
 Pneumatic stay-bolt breakers.

In their statements made before the United States Railroad Labor Board above referred to the conference committee of managers of the Association of Railway Executives said:

When a machinist and a helper are engaged on rod work, Rule No. 62 will not permit the helper to unscrew the nuts of the rod bolts; it will not permit a helper to unscrew the nuts from the piston rod packing gland on one side of an engine while the machinist, with whom he is working, is engaged in making repairs, say to the packing on the other side. This forces a capable man to stand idly by and watch some one work, with corresponding curtailment in production.

The Baltimore & Ohio Railroad Company in its case now before us claims that it incurred additional labor costs during the guaranty period because of reclassification of employees under the "national agreements," as follows:

In respect of maintenance of steam locomotives----	\$208,725
In respect of maintenance of passenger-train cars--	8,728
In respect of maintenance of freight-train cars-----	162,735

(15) *Extra payments required by standardization of salaries and wages.*—Extra amounts paid because of the standardization of salaries or wages within a general class. The carriers claim that during the test period and within the limits of certain agreements not generally applicable they were free to make different rates for different persons doing the same general class of work, whereas under the

“national agreements” as effective during the entire guaranty period all persons doing the same class of work received the same pay. The Baltimore & Ohio Railroad Company claims that during the guaranty period it incurred the following added costs of labor because of the abolition of a hiring rate and transfer of men on account of seniority as required by the “national agreements”:

In respect of maintenance of steam locomotives-----	\$388, 383
In respect of maintenance of freight-train cars-----	242, 556
In respect of maintenance of passenger-train cars--	32, 159

These illustrations may be indefinitely multiplied but serve as examples of the contentions of the carriers for allowances for changes in cost of labor other than those which may be measured by a consideration merely of wage scales. I do not contend for or concede the correctness of the carriers' claims made in particular cases or based on special engineering studies. On the contrary, the plan for which I contend allows only the amounts of actual expenditures made for labor and which are shown by the carriers' books of account kept under our accounting rules. I contend that amounts thus actually expended do in fact constitute a part of the cost of labor involved in maintenance, and that such actual expenditures, when they appear on the carriers' books of account, kept under our accounting rules, should be allowed.

In conclusion, what I have said involves no attack upon the “national agreements” or the terms and conditions which they impose. The question of their propriety is not before us in this proceeding. The Government put the “national agreements” into effect and required their observance during the guaranty period. The carriers had no alternative except to make the payments which the “national agreements” required. They ask now to be allowed for these actual payments. I submit that the Government, which fixed the terms and conditions and the wage scales, must now in good faith allow the carriers to include as proper expenses the moneys which they actually expended under the mandate of the Government and which are shown on their books. I submit further that we must allow such expenditures pursuant to the requirement of law that we shall make due allowance for *any* difference that may exist between the cost of labor in the guaranty period and that of the test period so that the result shall be as nearly as practicable the same relative amount, character, and durability of physical reparation.

The report of the majority denies, in part, the carriers' claims to be allowed for actual expenditures. It in effect says that while the carriers had no alternative but to make these payments, and while the Government alone was responsible for the terms and conditions which so swelled the cost of work, nevertheless the carriers, which had

nothing to say, shall bear the excessive burden. It finds, in effect, that the payments were excessive; that they show inefficiency; and for this reason the carriers shall suffer and not the Government, which is responsible. In effect, the majority finding, as I fear it will be construed, is that the Government will, by us, be made to evade a just liability and that the carriers will be compelled to take a serious loss because of "inefficiency of labor." It makes the charge of inefficiency, and in this charge I am unwilling to concur. I go along with the majority report in its conclusion that alleged inefficiency of labor, in the sense of slacking, shall not be translated into dollars and cents so as to allow the carriers something in excess of actual expenditures. I can not go along with the majority in their conclusion, which is the effect of the report, that certain expenditures represented inefficiency of labor and, therefore, must be disallowed.

This dissent is to be considered, in view of the uncertainty as to what the majority report is intended to mean. If the only effect of the report is to condemn what is termed "the fictitious claims of the carriers to translate into money the alleged inefficiency of labor," which I construe to mean the alleged inefficiency of the individual as distinguished from the ineffectiveness of expenditure for labor, or of aggregate accomplishment, as where costs were increased by changed working conditions, and it is not to be construed as excluding expenditures necessitated by changed terms and conditions, a statement in the report to this effect would go far to remove the aspect of injustice. I am hopeful that in its application to particular cases it will be given that interpretation. The lack of clarity, however, compels me to record this dissent, applying to the report the interpretation which would exclude consideration of changed terms and conditions, as illustrated by the national agreements, and which interpretation I hope is incorrect.

**APPENDIX A.—Comparison, effective working hours of track men test period, guaranty period efficiency and material the same:**

**TEST PERIOD:**

1 section foreman @ \$65.00 per mo. of 26 working days... = \$2.50 per day  
 10 laborers each @ 15¢ per hr., \$1.50 per day of 10 hours... = 15.00 per day

Labor cost per day, gang of 10 men.....\$17.50

Efficiency:—1 man will put in the track 1 crosstie per effective hour.

**Conditions:**

- (a) Basic work day 10 hours.
- (b) Men go to and from work on their own time.
- (c) There are 5 trains each way during the 10 hours.
- (d) To set off car, distribute tools, put out flags, and open up track requires 30 minutes.
- (e) To make work safe at quitting time, bring in flags, put car on track, collect and load tools, requires 45 minutes.

TEST PERIOD—Continued.

Basic work day----- 10.000 hours

Time lost (c) acc't passing of 10 trains

@ 5 minutes each----- 50 min.=0.833 hr.

Time lost (d) opening up work----- 30 min.=0.500 hr.

Time lost (e) closing up work----- 45 min.=0.750 hr.

Total time lost----- 125 min.=2.083 hr. 2.083 hours

Effective work day----- 7.917 hours

Crossties put in—10 x 7.917—per gang per day----- 79.17 ties

\$17.50

Cost per crosstie put in= $\frac{\$17.50}{79.17}$ =\$0.221

Averaged unit compensation= $\frac{\text{Total compensation } \$17.50}{\text{man hours } 110}$ =\$0.15909 per man hr.

GUARANTY PERIOD:

1 section foreman @ \$125.00 per mo. of 26 work days-----=\$4.808 per day

Laborers (sufficient to put in 79.17 ties per day) @ 27½¢

per hour-----= 2.200 per day each.

Efficiency: Same as Test Period.

Conditions:

(a) Basic work day 8 hours.

(b) Men go to and from work on company time.

(c) There are 4 trains each way during the 8 hours.

(d) and (e) Same as Test Period.

Basic work day----- 8.000 hrs.

Time lost going to and from work----- 90 min.=1.500 hr.

Time lost acct. passing of 8 trains @ 5

min. each-----=40 min.=.667 hr.

Time lost acct. opening & closing up track\_=75 min.=1.250 hr.

Total time lost----- 205 min.=3.417 hr. 3.417 hrs.

Effective work day----- 4.583 hrs.

79.17

Men required= $\frac{79.17}{4.583}$ =17.275

Labor— 1 section foreman, per day-----= \$4.808

17.275 laborers, each, per day, @ \$2.20-----= 38.005

Labor cost per day, gang of 17.275 men-----\$42.843

\$42.813

Cost per crosstie put in= $\frac{\$42.813}{79.17}$ =\$0.5408

Averaged unit compensation (a)= $\frac{\text{Total compensation } \$42.813}{\text{man hours } 146.2}$ =\$0.29284 per man hour.

RATIO:

Cost of effective labor, Guaranty Period 5408

-----=2.447

Cost of effective labor, Test Period 2210

RATIO:

(a) Compensation averaged unit, Guaranty Period 29284

-----=1.8407

(b) Compensation averaged unit, Test Period 15909

APPENDIX B.—*Illustrative calculation based upon conditions assumed to have been proved from accounts, records, and memoranda kept in accordance with section 20 of the interstate commerce act showing ratio of cost of labor in guaranty period to cost of labor in test period.*

TEST PERIOD:

Avg. gang actually used	{	1 section foreman @ \$65.00 per mo. of 26 working days=\$2. 50	
		per day.	
		10 laborers each @ 15¢ per hr., \$1.50 per day of 10 hrs.=15. 00	
		per day.	
		Labor cost per day, gang of 10 men-----	\$17. 50

Conditions:

- (a) Basic work day 10 hours.
- (b) Men go to and from work on their own time.
- (c) There are 5 trains each way during the 10 hours, or 1 train per hour.
- (d) To set off car, distribute tools, put out flags, and open up track requires 30 minutes.
- (e) To make work safe at quitting time, bring in flags, put car on track, collect and load tools, requires 45 minutes.

Basic work day-----	10. 000 hours.
Time lost (c) acct. passing of 10 trains	
@ 5 min. each,	50 min.=0. 833 hr.
Time lost (d) opening up work,	30 min.=0. 500 hr.
Time lost (e) closing up work,	45 min.=0. 750 hr.
Total time lost-----	125 min.=2. 083 hr. 2. 083 hours
Effective work day-----	7. 917 hours
	\$17.50
Cost per effective hr. of labor including foreman's supervision=	79.17=\$0.221
Averaged unit compensation=	Total compensation \$17.50 man hours 110=\$0.15909 per man hr.

GUARANTY PERIOD:

1 section foreman @ \$125.00 per mo. of 26 work days=\$4.808 per day	
Laborers -----	27½¢ per hour

Conditions:

- (a) Basic work day 8 hours.
- (b) Men go to and from work on company time.
- (c) There are 4 trains each way during the 8 hours, or 1 train per hour.
- (d) and (e) Same as Test Period.

Basic work day-----	8. 000 hours
Time lost going to and from work	90 min.=1. 500 hr.
Time lost acct. passing of 8 trains @ 5 min. each.	40 min.= . 667 hr.
Time lost acct. opening & closing up track	75 min.=1. 250 hr.
Total time lost-----	205 min.=3. 417 hr. 3. 417 hours
Effective work day-----	4. 583 hours
Men required per gang to produce same no. of effective hours of work of laborers per gang as was realized in test period.	$\left\{ \begin{array}{l} 79.17 \\ \hline 4.583 \end{array} = 17.275 \right\}$
	$\left\{ \begin{array}{l} \text{Checked and} \\ \text{verified by} \\ \text{gang actually} \\ \text{used} \\ \text{70 I. C. C.} \end{array} \right.$

GUARANTY PERIOD—Continued.

Labor— 1 section foreman, per day-----=\$4. 808  
 17.275 laborers, each per day @ \$2.20-----=38. 005

Labor cost per day, gang of 17.275 men----- \$42. 813

Cost per effective hour of labor, including foreman's  $\frac{\$42.813}{79.17} = \$0.5408$   
 supervision

Averaged unit compensation (a) =  $\frac{\text{Total compensation } \$42.813}{\text{man hours } 146.2} = \$0.29284 \text{ per man hour.}$

RATIO:

Cost of effective labor, Guaranty Period 5408  
 ----- = 2.447 to be used  
 Cost of effective labor, Test Period 2210 instead of

RATIO:

(a) Compensation averaged unit, Guaranty Period 29284  
 ----- = 1.8407  
 (b) Compensation averaged unit, Test Period 15909

APPENDIX C.—*United States Railroad Administration Docket No. 2043, Director General of Railroads, Railway Board of Adjustment No. 2.*

THE CHESAPEAKE & OHIO RAILWAY COMPANY AND FEDERATED MECHANICS.

QUESTION.—Shall machinists and machinists helpers be allowed pay for road trips when not called?

EMPLOYEES' POSITION.—We maintain that machinists and machinists helpers who stood at the head of road call list (but who were not called) should be paid for road trips December 3, 1919, and February 9, 1920.

On December 3, 1919, Machinist W. W. King and Machinist Helper D. Crawford stood first on road call list, but Peter Jackson was sent to Covington, Va., to apply two spring hangers on engine 279.

On February 9, 1920, Machinist J. G. Staley and Machinist Helper J. A. Nicely stood first on road call list, and Peter Jackson was sent to Covington, Va., to apply a driving spring on engine 298.

As Peter Jackson has, for the past several years, been performing work classified as that of machinist only, namely, spring rigging, at Clifton Forge Shops, and has never been sent out on line of road to perform any work and as Rule 9-b of the 1917, agreement of the Southeastern roads in reference to this class of men, reads in part—"except that special men who were in service January 12, 1916, may continue to do the same work to which then assigned until they leave the service or are transferred to other than mechanics' work." We claim Peter Jackson should only perform such work and at such point only as was performed by him January 12, 1916.

We claim that Machinist King and Helper D. Crawford should be paid for road trip December 3, 1919, and that Machinist J. D. Staley and Machinist Helper J. A. Nicely should be paid for road trip February 9, 1920.

RAILROAD'S POSITION.—Peter Jackson has been employed on running repair spring rigging work at Clifton Forge roundhouse for more than twenty years, during which time he has done practically all of the spring rigging work out on the line.

When this man is sent to Covington to replace a broken spring hanger or apply a spring, a helper is not sent with him because we have other mechanical department employees at that point who have very little work to do but who must be retained in order to take care of the small amount of work, such as engine watching, engine coaling, fire cleaning and such other work as is usually



done at a small junction turnaround point, and who can give Jackson any assistance needed.

We do not believe we have violated or gone beyond a reasonable interpretation of the spirit of the National Agreement in using Jackson to perform spring rigging work out on the line.

DECISION.—Overtime will be distributed as provided for in Rule 11 of the National Agreement, and if Peter Jackson was called out of turn in the equal distribution of overtime, the employee who should have been called will be paid for the call.

RAILWAY BOARD OF ADJUSTMENT No. 2,

R. J. Turnbull, Chairman.

Washington, D. C., November 18, 1920.

CAMPBELL, *Commissioner*, dissenting:

The interpretation placed by the majority upon the phrase "cost of labor" as used in paragraph (c) of section 5 of the standard contract is, in my judgment, contrary to the plain and natural significance of these words. If the words of an instrument are plain and unambiguous, as in this case, resort may not be had to extraneous facts in order to ascertain the intent of the parties thereto. The words themselves in such cases declare the intention of the parties. What does the word "cost" embrace? According to the opinion of the majority herein it is synonymous with "price," which, it seems to me, is placing upon it an altogether too narrow a construction. The phrase "cost of labor" according to its natural, plain and obvious meaning includes more than merely "changes in wages." It means the results obtained by labor—what it is necessary to pay to accomplish a certain result. Section 5, paragraph (c) of the standard contract provides:

(c) In comparing the amounts expended and charged under the provisions of paragraphs (a) and (b) of this section with the amounts expended and charged during the test period, due allowances shall be made for any difference that may exist between the cost of labor and materials and between the amount of property taken over and the average for the test period, and, as to paragraph (a), for any difference in use between that of the test period and during Federal control which in the opinion of the Commission is substantial enough to be considered, so that the results shall be, as nearly as practicable, the same relative amount, character, and durability of physical reparation.

Thus the cost of labor and the cost of material at different periods are to be compared. A comparison of costs of labor without having a unit of labor to deal with is impossible. The unit must be measurable and the result obtained is the standard by which a unit is to be measured. In other words, the carriers are entitled to be paid for maintenance in place.

For the above reasons I am unable to concur in the report herein. In the main I concur in COMMISSIONER DANIELS' dissent.

COMMISSIONER HALL did not participate in the disposition of this case.



FINANCE DOCKET No. 1490.

IN THE MATTER OF THE APPLICATION OF THE HUNTINGDON & BROAD TOP MOUNTAIN RAILROAD & COAL COMPANY FOR AUTHORITY TO ASSUME LIABILITY IN RESPECT OF EQUIPMENT-TRUST CERTIFICATES.

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*Submitted July 7, 1921. Decided July 12, 1921.*

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Authority granted to assume obligation and liability in respect of \$300,000 of equipment-trust 6 per cent certificates to be issued under the Huntingdon & Broad Top rolling-equipment trust, 18th series, in connection with the procurement of 4 locomotives and 10 all-steel passenger-train cars.

*Joseph R. Embury* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Huntingdon & Broad Top Mountain Railroad & Coal Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to assume obligation and liability in respect of \$300,000 of equipment-trust certificates to be issued under the Huntingdon & Broad Top rolling-equipment trust, 18th series. No objection has been made to the granting of the application.

The applicant represents that in order to handle properly traffic offered, to avoid renting locomotives under normal conditions, and to replace obsolete passenger equipment with modern standard equipment, it is essential that it procure two passenger locomotives, class 4-6-0, two freight locomotives, class 2-8-0, five all-steel passenger cars, two all-steel combination passenger-and-baggage cars, and three all-steel mail-and-baggage (or express) cars. The locomotives will be furnished by the Baldwin Locomotive Works and the cars by the Bethlehem Shipbuilding Corporation, at a cost, based on definite estimates and on contracts, of \$171,800 and \$235,593, respectively.

To obtain these locomotives and cars it is proposed that title thereto be acquired by the Pennsylvania Company for Insurances on Lives & Granting Annuities, and that this company, as trustee, and the applicant enter into a trust agreement and an indenture of lease, each to be dated on or about July 1, 1921, and to be substantially in the respective form submitted with the application. As rental for the locomotives and cars the applicant is to pay the trustee \$141,549.05 in cash

upon delivery of the equipment and thereafter amounts sufficient to discharge the principal of the certificates and dividends thereon, as and when they shall become due and payable, and certain taxes and other customary charges. Title to the locomotives and cars will remain in the trustee for the benefit of the holders of the trust certificates until all rents have been paid in conformity with the terms of the lease, whereupon the trustee for the further consideration of \$1 will transfer the title to the applicant.

The trust agreement will provide for the issue of \$300,000 of certificates in such denominations as the purchasers may designate, to be dated July 1, 1921, and to mature in equal amounts of \$10,000 semiannually beginning January 1, 1922, and ending July 1, 1936. Attached to each certificate will be dividend warrants evidencing the right of the holders thereof to dividends on the principal at the rate of 6 per cent per annum from July 1, 1921, payable semiannually January 1 and July 1, to and including the designated date of maturity. The applicant will guarantee the payment of the principal of the certificates and of the dividends thereon and will indorse such guaranty on the back of each certificate.

The certificates are to be sold to William Marriott Canby and Robert Glendinning & Company at 88.61465 per cent of par, the effective rate of interest on this basis being 8 per cent for an average maturity of  $7\frac{3}{4}$  years. The purchasers have the option of taking these securities on any convenient date between July 1 and July 15, 1921. The proceeds of the certificates and the cash payment to be made by the applicant will be applied by the trustee in payment of the purchase price of the locomotives and cars.

We find that the proposed assumption by the applicant of obligation and liability in respect of \$300,000 of equipment-trust certificates (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Huntingdon & Broad Top Mountain Railroad & Coal Company be, and it is hereby, authorized, for the pur-

pose of acquiring possession of, the right to use, and ultimately title to, 4 locomotives and 10 all-steel passenger-train cars described in the application and report aforesaid, to assume obligation and liability in respect of \$300,000, principal amount, of certificates of the Huntingdon & Broad Top rolling-equipment trust, 18th series, to be issued for sale by the Pennsylvania Company for Insurances on Lives & Granting Annuities, each certificate entitling the bearer or registered owner thereof to an interest in said trust and to semi-annual dividends thereon at the rate of 6 per cent per annum, (a) by entering into an agreement with the Pennsylvania Company for Insurances on Lives & Granting Annuities, as trustee, which will create said trust and provide for the issue of said certificates with attached dividend warrants, by said trustee; and thereby guaranteeing payment of the principal of said certificates and the dividends thereon at the rate of 6 per cent per annum; (b) by indorsing upon each of said certificates its guaranty of the payment of the principal thereof and the dividends thereon; (c) by entering into a lease with the trustee covering the trust equipment and thereby agreeing to pay rent sufficient to pay the principal of said certificates, the dividends thereon, and certain other charges; said agreement and lease to be substantially in the respective forms submitted with the application, and said certificates, warrants, and indorsements of guaranty to be substantially in the respective forms set forth in said agreement; said certificates, agreement, and lease to be dated on or about July 1, 1921; and said certificates to be in such denominations, not less than \$100, as may be designated by the purchasers thereof, and to mature, and the dividends to become due and payable, as specified in proposals submitted by the prospective purchasers and incorporated in the application, and as outlined in our report: *Provided, however*, That said certificates shall not be indorsed by the applicant or issued for sale or otherwise unless and until authenticated copies of said agreement and lease, as executed, shall have been on file with this commission not less than 10 days: *Provided further*, That said certificates be sold at not less than 88.61465 per cent of par and accrued interest and the entire proceeds thereof used in the acquisition of said equipment, and that none of said certificates be issued, sold, pledged, repledged, or otherwise disposed of, nor shall any of the proceeds thereof be used, except in the matter and for the purposes herein authorized.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the delivery of said locomotives and cars and the issue of said certificates (showing certificates sold, date of sale, to whom sold, terms of sale, proceeds realized therefrom, and disposition made of such proceeds);

and within 30 days after December 31, 1921, and after the close of each six months' period thereafter until all of such certificates shall have been retired, all pertinent facts relating to payment of the rentals prescribed by said lease, and the purpose or purposes to which such payments were to be applied; each of said reports to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to said certificates or dividends thereon, or as to any assumption of obligation or liability in respect thereof by the applicant.

70 I. C. C.

## FINANCE DOCKET No. 177.

IN THE MATTER OF SETTLEMENT WITH THE MIDDLE  
TENNESSEE RAILROAD COMPANY UNDER SECTION  
204 OF THE TRANSPORTATION ACT, 1920.

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*Submitted July 9, 1921. Decided July 13, 1921.*

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1. The Middle Tennessee Railroad Company is subject to section 204 of the transportation act, 1920.
2. The amount payable to the Middle Tennessee Railroad Company under the provisions of paragraphs (f) and (g) of section 204, is ascertained to be \$41,892.92, from which there is deductible an amount of \$2,578.83 due from said Middle Tennessee Railroad Company to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness. Certificate issued.

*R. G. Sparrow* for the carrier.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Middle Tennessee Railroad Company, a corporation of the State of Tennessee, hereinafter termed the carrier, was a steam railroad company which, during the Federal control period, engaged as a common carrier in general transportation, operating between Mount Pleasant and Franklin, Tenn., a distance of approximately 41.5 miles, its lines competing with the Louisville & Nashville Railroad, a line of railway or system of transportation under Federal control during the Federal control period. It sustained a deficit in its railway operating income while under private operation in the Federal control period. It is therefore, a carrier within the meaning of paragraph (a) of section 204 of the transportation act, 1920.

The carrier was under Federal control from January 1 to May 14, 1918, inclusive, and is subject to the provisions of section 204 for the period from May 15, 1918, to February 29, 1920, inclusive. It did not have a contract with the director general for any portion of the Federal control period. The return of the carrier under our circular of March 4, 1920, indicated a net credit to the carrier for the period May 15, 1918, to February 29, 1920, inclusive, of \$39,917.83, but our examination of the accounts shows the correct amount for that period to be \$41,892.92. The operated mileage during both the

Federal control period and the test period was approximately 41.5 miles.

Consideration has been given to the adjustment of maintenance charges. Applying, so far as practicable, the rule set forth in the proviso of paragraph (a) of section 5 of the standard contract between the director general and the carriers under Federal control, we have fixed the maintenance allowance at the amount charged by the carrier.

We find a net credit of \$41,892.92 due the carrier under section 204 in reimbursement of deficits during Federal control, from which there is deductible an amount of \$2,578.83 due from the carrier to the President, as operator of the transportation systems under Federal control, on account of traffic balances and other indebtedness. The carrier has expressed its willingness to accept the amount thus determined by us in final settlement of all its claims against the United States under section 204.

An appropriate certificate will be issued.

---

*Certificate No. B-61 under Section 204 of the Transportation Act, 1920.*

**TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:**

1. The Interstate Commerce Commission, hereinafter termed the commission, hereby certifies that the Middle Tennessee Railroad Company, hereinafter termed the carrier, is a corporation of the State of Tennessee and is a carrier as defined under section 204 of the transportation act, 1920. The commission further certifies that the carrier sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation, and hereby certifies that under the provisions of paragraphs (f) and (g) of said section 204 the amount payable to the Middle Tennessee Railroad Company is \$41,892.92.

2. The commission also certifies that the amount due from the carrier to the President (as operator of the transportation systems under Federal control) on account of traffic balances or other indebtedness is \$4,553.92; and that the amount payable under said section 204 of the carrier, after deducting the amount due from the carrier to the President, is \$37,339.

Dated this 13th day of July, 1921.

70 I. C. C.



*Certificate No. B-61-A under Section 204 of the Transportation Act, 1920.*

TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:

The Interstate Commerce Commission hereby cancels its certificate No. B-61, dated July 13, 1921, which certified to the Secretary of the Treasury of the United States a payment of \$41,892.92 to the Middle Tennessee Railroad Company, under paragraph (g) of section 204 of the transportation act, 1920.

Dated this 18th day of August, 1921.

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*Certificate No. B-81 under Section 204 of the Transportation Act, 1920.*

TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:

1. The Interstate Commerce Commission, hereinafter called the commission, hereby certifies that it has this date canceled certificate No. B-61, dated July 13, 1921, which certified to the Secretary of the Treasury of the United States a payment of \$41,892.92 in favor of the Middle Tennessee Railroad Company, hereinafter called the carrier.

2. The commission hereby certifies that the carrier is a corporation of the State of Tennessee and is a carrier as defined under section 204 of the transportation act, 1920. The commission further certifies that the carrier sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation, and hereby certifies that under the provisions of paragraphs (f) and (g) of said section 204 the amount payable to the Middle Tennessee Railroad Company is \$41,892.92.

3. The commission also certifies that the amount due from the carrier to the President (as operator of the transportation systems under Federal control) on account of traffic balances or other indebtedness is \$2,578.83; and that the amount payable under said section 204 to the carrier, after deducting said amount due from the carrier to the President, is \$39,314.09.

Dated this 18th day of August, 1921.

70 I. C. C.

FINANCE DOCKET No. 941.

IN THE MATTER OF THE APPLICATION OF THE CHICAGO GREAT WESTERN RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING NEW EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

Submitted July 8, 1921. Decided July 13, 1921.

Upon supplemental application, authority granted to divert a portion of the proceeds of the loan to purposes not specified in the original application.

S. M. Felton for applicant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
DIVISION 4:

On December 15, 1920, we issued our report and certificate No. 52 to the Secretary of the Treasury, 65 I. C. C., 486, approving a loan of \$1,929,373 to the Chicago Great Western Railroad Company, hereinafter referred to as the applicant, pursuant to the provisions of section 210 of the transportation act, 1920, as amended.

The purposes of said loan were to enable the applicant to rebuild equipment and to provide additions and betterments to way and structures, as follows:

Purpose.	Estimated cost.	Loan desired.
Additions and betterments to equipment:		
1. Rebuilding 500 box cars.....	\$650,000	.....
2. Rebuilding 197 hopper cars, series 62-M.....	334,900	.....
3. Rebuilding 300 hopper cars, series 61-M.....	330,000	.....
Total.....	1,314,900	\$1,314,900
Additions and betterments to way and structures:		
4. Laying heavier rail.....	108,482	.....
5. Additional ballast.....	279,591	.....
6. Additional yard tracks, Mason City, Iowa.....	35,000	.....
7. Boiler, Oelwein shop.....	40,000	.....
8. Air compressor, Oelwein shop.....	29,400	.....
9. Power house, Oelwein shop.....	20,000	.....
10. Turntable, Chicago, Ill.....	8,000	.....
11. Turntable, Des Moines, Iowa.....	8,000	.....
12. Bridge at Valeria, Iowa.....	86,000	614,473
Grand total.....	1,929,373	1,929,373

On June 23, 1921, the applicant made application to us for authority to divert the sum of \$100,000 from item 5 and the entire amounts  
70 I. C. C.

of items 6, 7, 8, 9, 10, and 12 to items 2 and 3 as stated, and for the rebuilding of additional equipment as follows:

Additional cost of rebuilding 197 hopper cars, series 62-M-----	\$35, 497
Estimated additional cost of rebuilding 300 hopper cars, series 61-M----	29, 124
Estimated cost of rebuilding 112 additional hopper cars, series 61-M--	112, 000
Estimated cost of rebuilding 175 box cars-----	141, 779
Total-----	318, 400

After investigation we find that the purposes for which it is now proposed to expend the remainder of the proceeds of the loan, to be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made, are necessary, within the discretion of applicant's operating officials, to enable the applicant properly to serve the transportation needs of the public. The desired authority is hereby granted, and our report of December 15, 1920, is hereby amended accordingly.

70 I. C. C.

## FINANCE DOCKET No. 1486.

## IN THE MATTER OF THE APPLICATION OF THE NORFOLK &amp; PORTSMOUTH BELT LINE RAILROAD COMPANY FOR AUTHORITY TO ISSUE A NOTE.

---

*Submitted June 30, 1921. Decided July 13, 1921.*

---

Authority granted to issue under date of July 16, 1921, a one-year 6½ per cent promissory note for \$125,000 to the Norfolk National Bank of Norfolk, Va., in renewal of a promissory note for \$150,000, reduced by \$25,000, maturing July 16, 1921.

*Thomas H. Wilcox* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Norfolk & Portsmouth Belt Line Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue to the Norfolk National Bank of Norfolk, Va., its 6½ per cent promissory note for \$125,000, to be dated July 16, 1921, maturing one year from date, in renewal of a note for \$150,000, reduced by payment of \$25,000, maturing July 16, 1921. No objection has been made to the granting of the application.

By our order in *Note Issue of Norfolk & Portsmouth Belt Line R. R.*, 65 I. C. C., 111, we authorized the applicant to issue to the above-named bank its note for \$150,000 in renewal of a note of like amount maturing July 16, 1920, and to increase the rate of interest from 5 to 6 per cent. During the current year the applicant has reduced the note to \$125,000, and now desires to issue a new note for the unpaid amount and to increase the rate of interest to 6½ per cent per annum.

The applicant states that it is impossible to renew the note at a lower rate of interest.

We find that the proposed issue of the promissory note by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not

impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Norfolk & Portsmouth Belt Line Railroad Company be, and it is hereby, authorized to issue its promissory note for \$125,000, to be dated July 16, 1921, maturing one year from date, payable to the Norfolk National Bank of Norfolk, Va., with interest at the rate of 6½ per cent per annum; said note to be in the form submitted with the application and used in renewal of a promissory note maturing July 16, 1921, as set forth in said report.

*It is further ordered*, That, except as herein authorized, said note shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue of said note, such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said note, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1258.

## IN THE MATTER OF THE APPLICATION OF THE DULUTH &amp; NORTHERN MINNESOTA RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted June 15, 1921. Decided July 15, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in St. Louis, Lake, and Cook Counties, Minn.

*Washburn, Bailey & Mitchell* for applicant.

*Joseph Meyer* and *B. F. Fowler* for protesting settlers and land owners.

*Clifford L. Hilton*, attorney general, *C. H. Christopherson*, assistant attorney general, and *Henry G. Carleton*, special assistant attorney general for State of Minnesota.

*F. S. Keiser* for Commercial Club of Duluth, Minn.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Duluth & Northern Minnesota Railway Company, a carrier by railroad subject to the interstate commerce act, on February 28, 1921, filed an application for a certificate of public convenience and necessity pursuant to paragraph (18) of section 1 of the interstate commerce act, authorizing it to abandon its entire line of railroad, extending from Knife River, Lake County, Minn., in a general northeasterly direction through Lake and St. Louis Counties to Cascade, Cook County, Minn., a distance of 99.25 miles. The State of Minnesota, through its attorney general and railroad and warehouse commission, advised us that it desired to make certain representations and requested a hearing, which was held on due notice. Protests against the proposed abandonment were filed on behalf of certain settlers in the territory to be affected.

Pursuant to the statutes of Minnesota, a petition was filed by the applicant with the Minnesota Railroad and Warehouse Commission for authority to abandon its road. That commission, after a hearing, on December 20, 1920, entered an order permitting the abandonment on and after April 1, 1921. An appeal was taken from

that order by various objecting parties to the district court of Minnesota and a separate appeal was taken by the attorney general of Minnesota on behalf of the State. On March 22, 1921, on motion of the attorney general, the district court reversed the order of the Minnesota Railroad and Warehouse Commission on the ground that said commission had exceeded its jurisdiction. An appeal was taken by the applicant from this order of the district court to the State supreme court, and this appeal is pending.

The applicant seeks to abandon its railroad for the reason, as it claims, that it has not been, and can not be, operated except at a loss. The attorney general of Minnesota objects to our jurisdiction on the grounds (a) that the petitioning railroad is an intrastate railroad, lying entirely within the State of Minnesota, and is not subject to the interstate commerce act, and particularly to paragraphs (18) and (22), inclusive, of section 1; (b) that if paragraphs (18) to (22), inclusive, of section 1, are construed as applying to intrastate railroads of the character of the applicant, said paragraphs are unconstitutional; (c) that the only reason assigned in the petition for the proposed abandonment is that the railroad has not been and can not be operated except at a loss, that such reason does not relate to present or future public convenience and necessity, which is the only ground upon which we can permit the abandonment, and that an inquiry into the reason assigned is beyond our jurisdiction. The attorney general admits that shipments originate on applicant's line destined to points outside the State, and states that the legal question here presented is: Can it be said from this simple and single circumstance that this road is subject to this act in a proceeding of abandonment? The attorney general states that so far as he is advised, this question has never been passed upon by any court and that the State is not disposed to argue it at great length in its brief, as it properly should be presented to a court instead of a commission.

We have considered the jurisdictional objections and are of opinion that we have jurisdiction to pass upon this application.

The applicant was incorporated in 1898 under the laws of Minnesota. It was organized by Alger, Smith & Company, a Michigan corporation, which owned large tracts of timber lands in Lake and Cook Counties. The primary purpose of its construction was to haul timber products of Alger, Smith & Company to Knife River, on Lake Superior, where a connection was made with the Duluth & Iron Range Railroad. Shortly after its organization the applicant commenced the construction of its railroad and built approximately 20 miles of track. As the timber was cut the line was extended from time to time until it reached a total length of 99.25 miles. The in-



creasing length of the rail haul added to the cost of lumbering operations, and as a result Alger, Smith & Company decided to discontinue use of the railroad for transporting its timber products to market. That company has advanced money to the applicant from time to time, taking stock to the amount of \$1,000,000 at par and carrying the balance of its advances as an open account. It has furnished the money to cover the deficits from operation. The entire capital stock, except qualifying shares of the directors, is owned by Alger, Smith & Company, and in addition thereto applicant is indebted to that company in the sum of \$946,604.52, of which \$500,000 is represented by a secured note and the balance is unsecured.

The evidence shows that the territory through which applicant's road passes is heavily timbered and that forest products and supplies for lumbermen constitute 95 per cent of its traffic. Of the total traffic, approximately 70 per cent has been furnished by Alger, Smith & Company. The operation of the road from June 30, 1909, to December 31, 1920, resulted in a loss of \$364,570.05. From June 30, 1913, to December 31, 1920, the net loss was \$440,093.11, each year showing a deficit except 1918, in which year \$3,300.91 net earnings were realized. It is claimed by protestants that the operating results of the years 1919 and 1920 do not indicate the earning capacity of the road, for the reason that lumbering activities were discouraged by the fact that applicant had given notice of its intention to abandon the road, but it appears clear that the road can not be operated except at a loss to its stockholders.

In December, 1919, Alger, Smith & Company sold their timber holdings to the Cloquet Northern Lumber Company, controlled by the so-called Weyerhaeuser interests. The contract of sale also provides that Alger, Smith & Company shall transfer to the Weyerhaeuser interests the north 30 miles of applicant's railroad, which the purchaser proposes to connect with its logging road and operate as a private carrier in its lumbering operations. The evidence shows that the great bulk of the privately owned timber contiguous to the applicant's line is now owned by the Weyerhaeuser interests and the Minnesota Forest Products Company, the only other extensive tracts being owned by the State. It is stated by the State superintendent of timber and the State forester of Minnesota, witnesses offered on behalf of the State, that there is no certainty when this State timber will be available for use, as it is the policy of the State not to sell any timber that is healthy and growing. The Duluth & Iron Range Railroad runs into the valuable State timber land in Lake County. It appears that a large part of the school and swamp lands in Lake and Cook Counties has been cut over once and in many cases two or

three times. The Weyerhaeuser interests own the Duluth & Northeastern Railroad, a logging road, and it is stated by the general manager of the applicant that it is their intention to ship all of their logs to their mills at Cloquet, Minn., using their own rail facilities for that purpose, and that they will not ship any of their timber to Knife River over applicant's road.

This road runs through a sparsely settled territory. The only town which it serves is Knife River, its terminus on Lake Superior, which is also served by the main line of the Duluth & Iron Range. For a distance of approximately 32 miles from Knife River, the territory through which applicant's railroad runs is also served by the Duluth & Iron Range Railroad. It is claimed that there are approximately 500 settlers in Lake County dependent on this road for transportation, while in Cook County the number does not exceed 20. The abandonment of applicant's road would necessitate the transportation of these settlers' products to the lake shore at Little Marais or Beaver Bay and shipment by rail to Two Harbors or Duluth. There is a public highway running through the towns at Beaver Bay, Crystal Bay, and Cramer, which connects with a public highway running from Two Harbors to Grand Marais. An omnibus line, carrying the mail, is regularly operated over this road. The applicant's passenger traffic consists almost entirely of men engaged in logging operations. The traffic furnished by the settlers is not of sufficient volume to have any appreciable effect on operating revenues.

From the matters of record, it is apparent that the applicant's railroad has not been and can not be operated except at a loss. The apparently certain elimination of most of its traffic in forest products will diminish its present insufficient revenues by at least 90 per cent.

Under the circumstances we find that the present and future public convenience and necessity permit the abandonment by the applicant of the line of railroad hereinbefore described. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of facts and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Duluth & North-

ern Minnesota Railway Company of its line of railroad described in the application and report aforesaid.

*It is ordered*, That said Duluth & Northern Minnesota Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered*, That said Duluth & Northern Minnesota Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

FINANCE DOCKET No.-1413.

IN THE MATTER OF THE APPLICATION OF THE KINDER  
& NORTHWESTERN RAILROAD COMPANY FOR A CER-  
TIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted July 6, 1921. Decided July 15, 1921.*

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Certificate issued authorizing the Kinder & Northwestern Railroad Company  
to abandon a line of railroad in Louisiana.

*C. C. Cary* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Kinder & Northwestern Railroad Company, a carrier by rail-  
road subject to the interstate commerce act, on April 25, 1921, filed  
an application for a certificate that the present and future public  
convenience and necessity permit the abandonment of a portion of its  
line of railroad extending from a connection with the Missouri  
Pacific Railroad at Kinder, La., to Bullard, La., a distance of 16  
miles. Applicant desires to abandon all but the 2 miles of line be-  
tween Kinder and Emad, taking up the steel on the last 6 miles, and  
selling 8 miles of the line, between Emad and Vizard, to a lumber  
company for use as a private logging road. The Railroad Commis-  
sion, now the Public Service Commission, of Louisiana having recom-  
mended that the application be granted, the case was submitted with-  
out formal hearing.

The line in question was built for the sole purpose of handling  
forest products. All of the timber has been cut except that belong-  
ing to the lumber company which wishes to purchase and operate as  
a plant facility the 8 miles of line. The cut-over lands have never  
been developed for other uses, and there are no communities or in-  
dustries located on the portion of the line to be abandoned. Thus  
the entire 14 miles of line now produces no revenue whatever ex-  
cept payments for trackage rights by the lumber company referred  
to. It is not stated on the record what use the applicant expects to  
make of the 2 miles of line between Kinder and Emad which it pro-  
poses to retain in service as a common carrier.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the 14 miles of railroad between Emad and Bullard, as prayed for in said application. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Kinder & Northwestern Railroad Company of its line of railroad between Emad and Bullard, La., described in the application and report aforesaid.

*It is ordered,* That said Kinder & Northwestern Railroad Company be, and it is hereby. authorized to abandon said line of railroad.

*It is further ordered,* That said Kinder & Northwestern Railroad Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1488.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO UNION STATION COMPANY FOR AUTHORITY TO ISSUE BONDS, AND OF CERTAIN CARRIERS FOR AUTHORITY TO GUARANTEE SAID BONDS.

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*Submitted June 17, 1921. Decided July 15, 1921.*

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## Authority granted:

1. To the Chicago Union Station Company to issue \$6,000,000, principal amount, of first-mortgage bonds, series C, the proceeds to be used solely in the construction of its union passenger station and facilities.
2. To the Chicago, Burlington & Quincy Railroad Company, the Chicago, Milwaukee & St. Paul Railway Company, the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and the Pennsylvania Company to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of these bonds.

*Frank J. Loesch* for Chicago Union Station Company.

*O. M. Spencer* for Chicago, Burlington & Quincy Railroad Company.

*Burton Hanson* for Chicago, Milwaukee & St. Paul Railway Company.

*C. B. Heiserman* for Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company and Pennsylvania Company.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

## BY DIVISION 4:

The Chicago Union Station Company, hereinafter called the station company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority, under section 20a of that act, to issue \$6,000,000 of first-mortgage bonds, series C. The Chicago, Burlington & Quincy Railroad Company, the Chicago, Milwaukee & St. Paul Railway Company, the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, common carriers by railroad engaged in interstate commerce, and the Pennsylvania Company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, hereinafter collectively called the proprietary companies, have likewise duly applied for authority under section 20a to assume jointly and severally the liability for the

principal and interest of such bonds, by indorsement thereon of their joint and several guaranty.

The Chicago Union Station Company is a corporation organized under the laws of the State of Illinois for the purpose of constructing, establishing, maintaining, and operating a union passenger station in the city of Chicago, State of Illinois. It has an authorized capital stock of \$3,500,000, of which \$2,800,000 is issued and outstanding and is owned in equal shares by the proprietary companies.

To procure the funds to construct the union passenger station and appurtenances thereto, the station company executed and delivered, under date of July 1, 1915, a first mortgage on all its properties to the Illinois Trust & Savings Bank, trustee, to secure a total authorized issue of \$60,000,000 of first-mortgage bonds. The indenture provided that the bonds could be issued in series, all bonds of a series to be of the same tenor and to bear the same rate of interest. Bonds have been executed by the company thereunder and certified by the trustee as follows: (1) \$30,850,000, series A, bearing interest at the rate of  $4\frac{1}{2}$  per cent per annum, of which \$30,000,000 are in the hands of the public and \$850,000 are held by or for account of the company; (2) \$6,150,000, series B, bearing interest at the rate of 5 per cent per annum, all of which are in the applicant's treasury; (3) \$10,000,000, series C, bearing interest at the rate of  $6\frac{1}{2}$  per cent per annum, all of which are outstanding in the hands of the public. Authority is now sought to issue under this mortgage \$6,000,000, principal amount, of additional series-C bonds, the proceeds to be used in continuing the construction of the union passenger station and its facilities.

These bonds are to be dated January 1, 1920, to mature July 1, 1963, to bear interest at the rate of  $6\frac{1}{2}$  per cent per annum, payable semiannually on January 1 and July 1 in each year, the entire series C, but not a part thereof, being redeemable at the option of the station company at 110 per cent of par on January 1, 1935, or on any semiannual interest date thereafter, upon 90 days' notice. The bonds are to be sold at a price to net the station company  $97\frac{1}{2}$  per cent of par and accrued interest.

By the terms of an operating agreement dated July 2, 1915, and a supplemental agreement dated February 1, 1919, providing for the use of the properties of the station company, the proprietary companies agreed to indorse on the first-mortgage bonds their joint and several guaranty, unconditionally guaranteeing the payment of the principal and interest.

We find that the issue by the station company of \$6,000,000 of its first-mortgage bonds, series C, and the assumption by the proprietary



companies of the liability of paying the principal and interest thereof by indorsement thereon of their joint and several guaranty (a) are for a lawful object within their respective corporate purposes and compatible with the public interest which is necessary and appropriate for and consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Chicago Union Station Company be, and it is hereby, authorized to issue for sale \$6,000,000, principal amount, of first-mortgage bonds, series C, under and pursuant to, and to be secured by, its first mortgage made July 1, 1915, to the Illinois Trust & Savings Bank, trustee, said bonds to be dated January 1, 1920, to mature July 1, 1963, to bear interest at the rate of 6½ per cent per annum, payable semiannually on January 1 and July 1 in each year and to be substantially in the form given in the mortgage; said bonds to be sold at a price to net the station company not less than 97½ per cent of par and accrued interest; the proceeds from the sale to be deposited as provided in the said mortgage and to be used solely in the construction of its union passenger station and its facilities.

*It is further ordered,* That, except as herein authorized, said bonds shall not be issued, sold, pledged, repledged, or disposed of, or the proceeds applied, unless and until so ordered by this commission.

*It is further ordered,* That the Chicago, Burlington & Quincy Railroad Company, the Chicago, Milwaukee & St. Paul Railway Company, the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and the Pennsylvania Company be, and they are hereby, authorized to assume liability by the indorsement of their guaranty, in the form given in the application, on said bonds hereby authorized to be issued, jointly and severally and unconditionally guaranteeing payment of the principal and interest thereof.

*It is further ordered,* That the Chicago Union Station Company shall report to this commission within 10 days thereafter all pertinent facts relating to (1) the issue and sale of said bonds and (2)

the deposit of the proceeds therefrom; and that for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days after the close of such period, it shall report to this commission the application of said proceeds, specifying the purposes for which they have been used and the account or accounts charged with such expenditures, each report to be in writing, and signed and verified by an executive officer of the applicant having knowledge of the facts contained therein.

*It is further ordered*, That the Chicago, Burlington & Quincy Railroad Company, the Chicago, Milwaukee & St. Paul Railway Company, the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, and the Pennsylvania Company shall each report to this commission within 10 days thereafter all pertinent facts relating to its assumption of liability in respect of the guaranty of the payment of the principal and interest of said bonds.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1494.

IN THE MATTER OF THE APPLICATION OF THE UNION  
TERMINAL COMPANY FOR AUTHORITY TO EXTEND  
THE MATURITY OF NOTES.

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*Submitted June 21, 1921. Decided July 15, 1921.*

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Authority granted to enter into agreements with the holders of \$550,000.01 of its 5 per cent unsecured notes for the extension of the maturity date thereof from October 10, 1921, to October 10, 1922, and for the payment of interest thereon at the rate of 6 per cent per annum from October 10, 1921, until paid.

*John C. Robertson* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Union Terminal Company of Dallas, Tex., a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to enter into extension agreements with the holders of \$550,000.01 of two-year 5 per cent unsecured notes issued by it under date of October 10, 1917, which will provide for the extension of the date of maturity from October 10, 1921, to October 10, 1922, and for payment of interest at the rate of 6 per cent per annum from the former date until the notes are paid. No objection has been made to the granting of the application.

The applicant's notes were issued for capital purposes under date of October 10, 1917, and originally bore interest at the rate of 5 per cent per annum and were payable on October 10, 1919, but by extension agreements entered into between the applicant and the holders of the notes, the date of maturity has twice been extended. The extension from October 10, 1920, to October 10, 1921, accompanied by an increase in the interest rate from 5 to 6 per cent per annum during the extended period, was authorized by our order dated October 15, 1920, 65 I. C. C., 286, 287. It appears that none of the notes have been transferred to other holders. The applicant submits that its financial condition is such as to preclude payment of the notes at maturity, and that it must either extend the notes or borrow money

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to discharge the debt. Holders of the notes have agreed to the proposed extension for another year, in consideration of which the interest will continue at the rate of 6 per cent per annum.

The extended notes will aggregate more than 5 per cent of the par value of the applicant's outstanding securities.

We find that the extension of the maturity date of its promissory notes as proposed by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Union Terminal Company be, and it is hereby, authorized to enter into extension agreements with the respective holders of \$550,000.01, principal amount, of its two-year 5 per cent unsecured notes, dated October 10, 1917, (the maturity dates of which have heretofore been extended to October 10, 1921) for the purpose of extending the maturity dates thereof from October 10, 1921, to October 10, 1922, as follows:

J. L. Lancaster and C. L. Wallace, receivers of the Texas & Pacific Railway Company-----	\$78, 571. 43
Houston & Texas Central Railroad Company-----	78, 571. 43
Atchison, Topeka & Santa Fe Railway Company-----	78, 571. 43
St. Louis, San Francisco & Texas Railway Company-----	78, 571. 43
Chicago, Rock Island & Gulf Railway Company-----	78, 571. 43
St. Louis Southwestern Railway Company of Texas-----	78, 571. 43
City National Bank of Dallas, Tex-----	39, 285. 71
City National Bank of Dallas, Tex-----	39, 285. 72
<hr/>	
Total-----	550, 000. 01

said notes for the extended period as herein authorized, and until paid, to bear interest at a rate not exceeding 6 per cent per annum, payable semiannually on the 1st day of April and of October, and to be redeemable as provided in said proposed extension agreements, which agreements shall be in the form submitted with the application.

*It is further ordered*, That within 10 days after the execution and delivery of said extension agreements, a verified copy of each shall be filed with this commission.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, or as to said extension agreements, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1234.

IN THE MATTER OF THE APPLICATION OF THE  
AHUKINI TERMINAL & RAILWAY COMPANY, LIM-  
ITED, FOR A CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY.

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*Submitted July 14, 1921. Decided July 16, 1921.*

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Certificate issued authorizing the construction and operation of a line of railroad in the district of Puna, island of Kauai, Territory of Hawaii.

*Henry Holmes and Ingram M. Stainback* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Ahukini Terminal & Railway Company, Limited, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, on February 14, 1921, filed an application for a certificate of public convenience and necessity, pursuant to paragraph (18) of section 1 of the interstate commerce act, authorizing it to construct, maintain, and operate a line of railroad in the district of Puna, island of Kauai, Territory of Hawaii, extending from a point near Anahola Bay to Ahukini Landing on Hanamaulu Bay, a distance of approximately 16 miles. The Governor of the Territory of Hawaii recommends that the application be granted, and states that, in his opinion, the construction and operation of the proposed railroad will meet the public convenience and necessity.

The applicant was incorporated under the laws of the Territory of Hawaii on July 23, 1920, with an authorized capital stock of \$10,000, divided into 100 shares of the par value of \$100 each, with the privilege, after notice to the treasurer of the Territory of Hawaii, of subsequent increase to an amount not exceeding \$3,000,000, in like shares of \$100 each.

The applicant proposes to build a 30-inch gauge railroad along the eastern coast of the island of Kauai. The country through which the railroad would pass is described as rolling and cultivated. The purpose of the proposed construction is to connect the points along its route and the tributary country with the harbor at Ahukini Landing. At present the outgoing freight is carried by small inter-

island steamboats, which can not be employed except in calm weather. With the exception of plantation railroads, there is only one other railroad on the island—the Kauai Railroad, which connects Koloa with Port Allen, on the southern coast of the island, and does not serve the district in question. Incoming freight for the territory to be served by the proposed line is now hauled by wagon a maximum distance of 18 miles from Nawiliwili, on the east coast, a little south of Ahukini Landing. From several points along the proposed route plantation railroads extend into the interior of the island. These plantation railroads are of the same gauge as the proposed line, which would permit the plantation cars to move over the applicant's tracks.

The Lihue Plantation Company owns two-thirds of the applicant's outstanding capital stock. This company owns and operates sugar plantations at Lihue and Hanamaulu. The applicant's proposed road will connect with some of the plantation railroads of the Lihue Plantation Company and will be used by that company for the purpose of transporting its products to market. Connections will also be made with plantation railroads of other sugar companies.

The applicant states that the territory tributary to its proposed road has a population of approximately 10,000. It appears that sugar companies own a large part of the land, but there are some independent farmers and merchants whom it would serve. The principal products are sugar, rice, and pineapples. Four stations are to be established on the line.

The estimated cost of the proposed road and equipment is \$620,000. The estimated gross revenue, based on the first year's traffic and on existing rates, is \$180,230. Operating expenses are estimated by the applicant on the bases of 55 per cent, 60 per cent, and 70 per cent of gross revenues, and from the remaining earnings a uniform deduction of \$18,000 is made for wharf rental. This leaves a balance available for payment of taxes and dividends of \$63,104, \$54,092, or \$36,069, according to the operating ratio used. The average operating ratio for the five Hawaiian railroads reporting to this commission for the years 1914 to 1920, inclusive, is approximately 65 per cent.

The construction and operation of the proposed line should be of material benefit to the development of the territory which it would serve, and it appears that there is a reasonable prospect of its earning a satisfactory return.

Upon the facts presented we find that the present and future public convenience and necessity require the construction and operation by the applicant of the line of railroad described in the application. A certificate and order to that effect will accordingly be issued.



*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction and operation by the Ahukini Terminal & Railway Company, Limited, of the line of railroad in the district of Puna, island of Kauai, Territory of Hawaii, described in the report aforesaid.

*It is ordered,* That said Ahukini Terminal & Railway Company, Limited, be, and it is hereby, authorized to construct and operate said line of railroad.

*It is further ordered,* That said Ahukini Terminal & Railway Company, Limited, when filing schedules establishing rates and fares on said new line of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

70 I. C. C.

FINANCE DOCKET No. 1398.

IN THE MATTER OF THE APPLICATION OF THE KENTWOOD, GREENSBURG & SOUTHWESTERN RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted July 14, 1921. Decided July 16, 1921.*

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Certificate issued authorizing the Kentwood, Greensburg & Southwestern Railroad Company to abandon its line of railroad in Louisiana.

*T. Brady, jr.*, for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Kentwood, Greensburg & Southwestern Railroad Company, a carrier by railroad subject to the interstate commerce act, on April 18, 1921, filed an application for a certificate that the present and future public convenience and necessity permit the abandonment of its line of railroad extending from a connection with the Illinois Central Railroad at Kent's Mill, La., to Freiler, La., a distance of 13.21 miles. The Railroad Commission, now the Public Service Commission, of Louisiana having recommended that the application be granted, the case was submitted without formal hearing.

The line in question was built for the sole purpose of hauling forest products. Nearly all of the timber has been cut. The little that remains was being rapidly removed until several months ago when the only sawmill on the line was burned, thereby causing the line to lose its largest source of revenue. Up to the present time no effort has been made to rebuild the mill and applicant states that none will be made. The territory served by the applicant is "cut-over land" with a small amount of farm lands and no communities other than a small one at Greensburg, which is located 1 mile from the railroad station of Freiler, La. The population of the country served has decreased by several thousand during the past 10 years. It appears that but few people will be affected by the proposed abandonment. Those affected will be compelled to drive but a few miles to the nearest railroad. The State of Louisiana has voted bonds for gravel roads in that section of the State. The applicant states that during the past seven years its deficit from operation amounted to approx-

70 I. C. C.

imately \$200,000, and that on December 31, 1920, it was in debt to the amount of \$189,626.71; that it is unable to borrow more money; and is without funds to meet its pay rolls or to provide for maintenance of way and equipment.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the 13.21 miles of railroad between Kent's Mill and Freiler, as prayed for in the application. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part thereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Kentwood, Greensburg & Southwestern Railroad Company of its line of railroad between Kent's Mill and Freiler, La., described in the application and report aforesaid.

*It is ordered,* That said Kentwood, Greensburg & Southwestern Railroad Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Kentwood, Greensburg & Southwestern Railroad Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 920.

IN THE MATTER OF THE APPLICATION OF THE  
ARANSAS HARBOR TERMINAL RAILWAY FOR A LOAN  
FROM THE UNITED STATES.

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*Submitted July 12, 1921. Decided July 18, 1921.*

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Upon supplemental application, original finding modified and loan reduced to \$50,000. Certificate of June 22, 1920, canceled. Previous report, 65 I. C. C., 20.

*J. D. Wheeler* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Aransas Harbor Terminal Railway, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 12, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, to aid the applicant in providing itself with certain additions and betterments to way and structures included in a program of reconstruction of applicant's main line (6.5 miles of a total of 7.29 miles) destroyed by a West Indian hurricane September 14, 1919.

Pursuant to this application, after formal hearing and investigation, we issued to the Secretary of the Treasury our report and certificate No. 3, June 22, 1920, 65 I. C. C., 20, approving a loan to the applicant of \$135,000, being substantially one-third of the total estimated cost of the project based upon permanent trestle construction. One of the conditions of this loan was that prior to the making thereof by the Secretary of the Treasury the applicant should raise through its bondholders and the shipping interests of southwest Texas and place in trust for the project a sum equal to twice the amount of the loan.

Nominally, this applicant furnishes transportation service by railroad between the harbor of Port Aransas, located on Harbor Island, and a connection on the mainland with the San Antonio & Aransas Pass Railroad. Its traffic, consisting chiefly of crude petroleum from Mexican ports and cotton for export, has, since the destruction of its railroad, as aforesaid, been handled partly by barges and

partly by rail, with resulting inferior service and excessive expense to the applicant.

On July 12, 1921, the applicant amended its application reducing the amount of loan desired to \$50,000, being one-third of the cost of a modified program of reconstruction to place its railroad substantially in the same condition in which it existed before the hurricane, construction being of embankment and trestle. In support of this amendment the applicant represents to us that, because of unforeseen financial conditions in the Southwest, it has been wholly unable to accomplish the financing required as a condition of the loan previously approved by us; that it has been able to raise from its bondholders, the shipping interests, and revenues the sum of approximately \$82,800 only, which it has already expended upon the project as revised; that the necessity for restoration of normal transportation service is very great and that the present plan is the best that can be worked out at this time.

In the application, amended as aforesaid, the applicant further sets forth:

1. That the term for which the loan is desired is 15 years, repayable serially.

2. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
Engineering.....	\$1,205.16		
Grading.....	5,808.15		
Ballast.....	1,795.77		
Ties.....	18,150.17		
Bridges, trestles, and culverts.....	25,841.08		
Small tools.....	329.84		
Bank protection.....	457.87		
Other track material.....	2,930.41		
Track laying and surfacing.....	4,291.60		
Insurance.....	133.28		
Telephone line.....	310.48		
Station and office buildings.....	1,709.63		
City wharf.....	4,741.66		
Water stations.....	2,380.16		
Loading rack at city wharf.....	6,485.11		
Shops and engine houses.....	1,115.41		
Roadway machines.....	47.24		
Drawbridge trestle, 713 feet:			
48 trestle piles, 25-foot, at \$1.10 per foot.....	1,320.00		
24 trestle piles, 35-foot, at \$1.10 per foot.....	924.00		
32 trestle piles, 45-foot, at \$1.10 per foot.....	1,584.00		
Driving 84 piles at \$4.....	336.00		
Labor.....	397.04		
Hardware, 50 bents, at \$5.80.....	290.00		
Treatment.....	71.40		
Trestle No. 5, 2,171 feet:			
Labor, at \$10 per 1,000 b. m. feet.....	1,206.98		
Hardware, 155 bents, at \$5.80.....	899.00		
Treatment.....	217.00		
Trestle No. 6, 658 feet:			
Labor, at \$10 per 1,000 b. m. feet.....	365.97		
Hardware, 47 bents at \$5.80.....	272.60		
Treatment.....	65.80		
Trestle No. 7, 1,400 feet:			
200 stringers, 52,266 b. m. feet, at \$60.....	3,135.96		
200 untreated piles, 35-foot, at 25 cents per linear foot.....	1,750.00		
Driving, at \$6.....	1,200.00		
Labor.....	778.66		
Hardware, 100 bents, at \$5.80.....	580.00		
Treatment.....	140.00		

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
Track on embankment, including 30,000 yards, at 25 cents per yard.	\$10,000.00	.....	.....
Laying steel on trestles.....	1,000.00	.....	.....
Brush for bank protection, 20,000 bundles, at 10 cents.....	2,000.00	.....	.....
Ties.....	9,900.00	.....	.....
Straps and bolts for bridges.....	10,835.00	.....	.....
New trestle, 2,640 feet, at \$10 per foot.....	26,400.00	.....	.....
Total.....	153,402.43	\$103,402.43	\$50,000

3. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.

4. That the security offered is an absolute first lien on all the property of the applicant now owned and hereafter to be acquired. It is proposed that the entire authorized issue of existing prior-lien bonds be delivered to the trustee of the mortgage under an agreement that the first lien on the property now existing be waived in favor of the loan by the United States, such waiver to be executed by the applicant, the bondholders, and the trustee; the agreement to further provide that all of said bonds shall be held in trust, and the trustee shall certify no other of said bonds until the loan from the United States is paid in full. The first lien in favor of the United States will then be effected by the execution of a mortgage covering all of the property of the applicant now owned and hereafter to be acquired by it and the execution and delivery of notes to be issued thereunder.

The supplemental application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation as we deemed pertinent to the inquiry.

After investigation, we find that the making of the requested loan by the United States, for the purposes and in the amounts above set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate amended certificate will be issued and our certificate No. 3, of June 22, 1920, will be canceled.

*Amended Certificate No. 3 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$50,000 by the United States to the Aransas Harbor Terminal Railway, a carrier by railroad subject to the interstate commerce act hereinafter referred to as the applicant, for the purpose of aiding the applicant in providing itself with additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$50,000.

4. That the time from the making thereof within which the loan is to be repaid in full is five years from August 1, 1921.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of applicant's prior-lien mortgage 5-year 6 per cent gold notes, due 1926, issued under an indenture of mortgage dated August 1, 1921, executed and delivered by the applicant to the Maryland Trust Company, as trustee. Said notes are in temporary form, without coupons, are in denomination of \$1,000, and are numbered 1 to 50, inclusive.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Com-



mission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(e) The applicant has agreed in an instrument in writing, dated the 31st day of August, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed  $7\frac{1}{2}$  per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan, together with the entire amount to be financed by the applicant, shall have been expended or definitely obligated for said purposes, or the entire loan shall be repaid to the United States, on or before July 1, 1922. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Certificate No. 3, June 22, 1920, is hereby canceled.

Done at Washington, D. C., this 2d day of September, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1181.

## IN THE MATTER OF THE APPLICATION OF THE EL PASO &amp; SOUTHWESTERN COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK WITHOUT PAR VALUE.

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*Submitted May 26, 1921. Decided July 18, 1921.*

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Authority granted to issue 750,000 shares of capital stock without par value, in exchange for and retirement of all of applicant's capital stock now outstanding consisting of 250,000 shares of an aggregate par value of \$25,000,000.

*Wm. Church Osborn* for applicant.

## REPORT OF THE COMMISSION.

## BY THE COMMISSION:

The El Paso & Southwestern Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue 750,000 shares of capital stock without par value. No objection has been made to the granting of the application.

The applicant proposes to amend its certificate of incorporation so as to change its present authorized capital stock of \$35,000,000, divided into 350,000 shares of the par value of \$100 each, into 1,000,000 shares of capital stock without nominal or par value. Of the new shares, 750,000 will be issued to the present stockholders in exchange for their stock. There are 250,000 shares, of an aggregate par value of \$25,000,000, now outstanding. The proposed exchange, therefore, will be on a basis of three shares of the new stock for one of the old. Appropriate resolutions were adopted by the applicant's board of directors on December 23, 1920, and the proposed amendment was approved unanimously at a meeting of stockholders held February 8, 1921, at which all of the stockholders were present or represented. It appears that such amendment is authorized by the general corporation act of New Jersey, under which the applicant was incorporated.

Of the shares authorized by the proposed amendment, 250,000 are for the present to remain unissued, subject to the future requirements of the carrier. No other change in the applicant's financial structure is now contemplated.

We find that the proposed issue and exchange of capital stock without par value by the applicant as aforesaid (a) are for a lawful object within its corporate purposes, and compatible with the public

interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

EASTMAN, *Commissioner*, dissenting:

I have been unable in this case to discover good reason for permitting the substitution of three shares of stock without par value for every share of par value stock. Applicant operates in the States of Arizona, New Mexico, and Texas. and in Mexico a system of railroad companies, which it controls through stock ownership or lease or both. It owns no railroad property except equipment. It has outstanding stock of the par value of \$25,000,000 and no funded debt, and on December 31, 1919, its surplus amounted to \$16,327,599. The record shows that dividends of 8 per cent were paid in 1917, 1918, 1919, and 1920, but is silent with respect to the dividends paid prior to 1917.

Applicant believes that its "present capital stock of \$25,000,000 is in itself a misstatement of the value of the property as it stands to-day," and apparently thinks that this fact may prejudice the valuation which we now are making. It feels that it has a "right to ask that that valuation shall not be prejudiced, or affected injuriously or otherwise, by the par value of the outstanding capital stock." The view is also expressed that "there is a great prejudice in this country against the payment of large dividends per share," and applicant claims that it is "entitled to be free from difficulties of combating that principle, that feeling."

There is more in the same vein, but the reasons advanced for the issue of stock with no par value may briefly and fairly be summarized as a fear that the outstanding par-value stock may operate as a restraint upon us in fixing the value of the property, plus a desire to be able to increase dividend payments in a less conspicuous way than is now possible. No reasons of more substance than these are offered, and no claim is made that the existing par-value stock has in any way hindered the development of the company or checked its prosperity.

The petition might well be dismissed for failure to make a case, but there are positive reasons for denial. Of late a strong movement has developed in favor of the issue of stock without par value by railroads and public utilities. It is, I think, significant that this movement has coincided with the rapid growth of public regulation of security issues. Whether or not stock with no par value is desirable in the case of ordinary industrial enterprises I do not under-

take to say, but I entertain little doubt that so far as public service corporations are concerned, it is the manifestation of an unsound tendency subversive of the public interest.

Those who favor no par value are wont to say that stock with par value is misleading, because par value seldom, if ever, represents correctly the *actual* value of the property. But no one is misled, for it has been well and commonly known for many years that par value and actual value are not the same thing. The theory of par value is only that it represents cash or its equivalent that has been invested in the property. The trouble in the past has been that loose and pernicious corporation laws have made this true merely in theory and not in practice. Now that these laws are being corrected, we have the movement in favor of stock with no par value.

My conviction is that the doctrine of so-called "value" is full of pitfalls, and that the path to soundness and stability in public service corporation finance under private management lies instead in the recognition and protection of investment honestly and prudently made. The distinguishing feature of a public service corporation is that it is monopolistic in nature and entitled to make only just and reasonable charges for its services. Those charges are just and reasonable which in the aggregate meet the reasonable cost of the services, including in that cost a sufficient return, fluctuating if need be with changing conditions, upon legitimate investment to induce a continuing influx of necessary capital. If such charges are permitted, no claim of confiscation can possibly be sustained.

Under public regulation, investment is a thing definite, certain, and easily ascertained. So-called "value," as the word is now used in railroad and public-utility circles, is a thing of uncertainties, contradictions, artificialities, metaphysical subtleties, absurdities, and opportunities for public plunder. I am fully persuaded that it is desirable and in the public interest that outstanding capitalization should represent as nearly as practicable legitimate investment, and that the return upon that investment should clearly appear without disguise of any sort. We are a long distance from that now but can at least move in the right direction. Stock without par value in my opinion is a step in the wrong direction and toward speculation, instability, and confusion of the public mind.

### ORDER.

Hearings in this proceeding and investigation of the matters and things involved therein having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the El Paso & Southwestern Company be, and it is hereby, authorized to issue not to exceed 750,000 shares of capital stock without nominal or par value, in exchange for and retirement of 250,000 shares of its capital stock of the par value of \$100 each, now outstanding, in the ratio of three shares of the authorized stock for each share of the stock to be retired; the authorized shares to be represented by certificates substantially in the form submitted with the application.

*It is further ordered,* That the authority herein granted shall not be exercised until 10 days after there shall have been filed with the commission a copy of the amendment to the applicant's certificate of incorporation, under which the proposed issue and retirement of stock is to be made; such copy to be authenticated by certificate of the secretary of state of New Jersey.

*It is further ordered,* That none of the authorized shares of stock shall be issued, sold, pledged, repledged, or otherwise disposed of by the applicant in any manner or for any purpose, except as herein authorized.

*It is further ordered,* That the applicant shall report to the commission, within 10 days thereafter, all pertinent facts relating to (1) the issue and exchange of said stock as herein authorized, and (2) the retirement of the applicant's capital stock now outstanding, including the amounts charged or credited to each account; such reports to be signed by an executive officer of the applicant having knowledge of the facts and verified by his oath.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said no-par-value stock, or dividends thereon, on the part of the United States.

## FINANCE DOCKET No. 1481.

## IN THE MATTER OF THE APPLICATION OF CAMBRIA &amp; INDIANA RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS.

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*Submitted June 14, 1921. Decided July 18, 1921.*

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Application granted in part and loan of \$250,000 approved.

*W. E. Dobson* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4. COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Cambria & Indiana Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on June 14, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness.

In the application, as amended and supplemented, the applicant sets forth:

1. That the amount of the loan desired is \$750,000.
2. That the term for which the loan is desired is 10 years.
3. That the purposes of the loan and the use to which it will be applied are as follows: To meet the maturity, August 1, 1921, of 2-year 6 per cent gold notes; principal amount \$800,000; to be financed by applicant, \$50,000; loan desired from the United States \$750,000.
4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.
5. That the security offered is (a) \$75,000 of applicant's first-mortgage bonds, and (b) \$1,089,000 of applicant's general-mortgage bonds.
6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to preserve its credit and thus enable it properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

The American Short Line Railroad Association recommended a loan to the applicant of the amount requested in its application.

After investigation, we find that the making in part of the requested loan for the purpose and in amount as follows: To meet the maturity, August 1, 1921, of 2-year 6 per cent gold notes, principal amount, \$800,000; to be financed by applicant, \$550,000; to be loaned by the United States, \$250,000, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 108 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$250,000 by the United States to the Cambria & Indiana Railroad Company, a carrier by railroad subject to the interstate commerce act hereinafter referred to as the applicant, for the purpose of aiding the applicant in meeting its maturing indebtedness is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$250,000.

4. That the time from the making thereof within which the loan is to be repaid in full is four years.



5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$75,000, principal amount, of applicant's first-mortgage 25-year 5 per cent gold bonds, due 1936, issued under an indenture of mortgage dated May 1, 1911, executed and delivered by the applicant to the Girard Trust Company, as trustee. Said bonds are in definitive coupon form, having coupon due November 1, 1921, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered 826 to 900, inclusive.

(b) The loan shall be further secured by the pledge of \$250,000, principal amount, of applicant's general-mortgage 25-year series-A 6 per cent gold bonds, due 1944, issued under an indenture of mortgage dated August 1, 1919, executed and delivered by the applicant to the Girard Trust Company, as trustee. Said bonds are in definitive coupon form having coupon due February 1, 1922, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered 1 to 250, inclusive.

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(f) The applicant has agreed in an instrument in writing, dated the 25th day of July, 1921, filed with the Interstate Commerce Com-

mission, to the following conditions: The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 8 per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 27th day of July, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1052.

IN THE MATTER OF THE APPLICATION OF THE AKRON,  
CANTON & YOUNGSTOWN RAILWAY COMPANY FOR A  
LOAN FROM THE UNITED STATES TO AID IN MEET-  
ING MATURING INDEBTEDNESS AND IN PROVIDING  
EQUIPMENT AND OTHER ADDITIONS AND BETTER-  
MENTS.

*Submitted June 23, 1921. Decided July 19, 1921.*

Application granted and loan of \$212,000 approved.

*Andrew P. Martin and H. B. Stewart* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Akron, Canton & Youngstown Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on January 13, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness and in providing itself with equipment and other additions and betterments.

On January 17, February 3, March 3, and June 23, 1921, the applicant amended and supplemented the application.

In the application, as amended and supplemented, the applicant set forth:

1. That the amount of the loan desired is \$212,267.75.
2. That the term for which the loan is desired is 15 years.
3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<b>Maturing indebtedness:</b>			
Short-time note due Jan. 21, 1921, to the National City Bank of Akron, Ohio.....	\$50,000.00	\$25,000.00	\$25,000.00
<b>Equipment:</b>			
2 class 080-5-214 eight-wheel switching locomotives.....	82,000.00	.....	.....
3 ten-wheel freight road locomotives.....	39,113.50	.....	.....
1 ditching outfit, consisting of one Jordan air spreader, one Erie steam ditcher and two 20-yard capacity standard-gauge Magor dump cars.....	22,000.00	.....	.....
100 forty-ton capacity self-clearing hopper cars.....	86,300.00	.....	.....
3 superstructure steel center-sill 6-wheel cabooses.....	6,000.00	.....	.....
<b>Total equipment.....</b>	<b>235,413.50</b>	<b>126,956.75</b>	<b>108,456.75</b>

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<b>Additions and betterments to way and structures:</b>			
At Brittain yard—			
Connecting runaround track to turntable .....	\$800.00	.....	.....
Changing main track from center of yard to south track No. 53 and providing new connections around the east and west ladders, approximately 1,600 feet .....	14,524.00	.....	.....
Water line from river to roundhouse .....	2,400.00	.....	.....
New ventilators and asbestos smoke jacks for present roundhouse, and foundations and two concrete engine pits for four additional stalls .....	6,955.00	.....	.....
New 4-car repair and storage tracks, approximately 2,600 feet .....	20,600.00	.....	.....
Ash pit and steam cinder conveyor .....	2,300.00	.....	.....
Additional machinery for shop .....	25,000.00	.....	.....
In Akron district—			
One 80-pound crossover connection with the Northern Ohio at Summit Street, 250-foot track .....	957.00	.....	.....
Changing rail, frog, and switch material through seven turnouts in Silver Street district .....	700,700.00	.....	.....
Changing 60-pound rail to 80-pound rail M. P. 2 to M. P. 3 .....	1,960.00	.....	.....
Replacement of 60-pound rail with 90-pound rail on bridge No. 6 .....	815.00	.....	.....
Purchase of telegraph line from Western Union Telegraph Company .....	2,000.00	.....	.....
Total additions and betterments to way and structures .....	78,811.00	.....	\$78,811.00
Grand total .....	364,224.50	\$151,956.75	212,267.75

4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is \$382,700, principal amount, of applicant's first-mortgage 6 per cent 20-year gold bonds, due July 1, 1930, together with \$35,000, principal amount, of the Akron & Barberton Belt Railroad Company's first-mortgage 4 per cent 40-year gold bonds, due June 1, 1942.

6. The extent to which the public convenience and necessity will be served.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation as we deemed pertinent to the inquiry.

After investigation, we find that the making of the requested loan in even thousands of dollars, namely, \$212,000, by the United States for the purposes and in the amounts above set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant and character and value of the security offered afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United

States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

COMMISSIONER DANIELS dissents.

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*Certificate No. 107 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$212,000 by the United States to the Akron, Canton & Youngstown Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in meeting its maturing indebtedness and in providing itself with equipment and other additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$212,000.

4. That the time from the making thereof within which the loan is to be repaid in full is five years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$382,700, principal amount, of applicant's first-mortgage 20-year 6 per cent gold bonds, due 1930, by extension as originally provided therein substantially in the following form:

The undersigned, owner of this bond, for value received, agrees to the postponement of its redemption to July 1, 1930, as originally provided therein.

Executed in duplicate this ----- day of -----.

Attest:

-----  
Said bonds were issued under an indenture of mortgage, dated September 1, 1910, executed and delivered by the applicant to the Cleveland Trust Company, of Cleveland, Ohio, as trustee. Said

bonds are in definitive coupon form, having coupon due January 1, 1922, and all subsequent coupons attached, are in denomination of \$100, and are numbered as shown on Exhibit A, attached hereto.<sup>1</sup>

(b) The loan shall be further secured by the pledge of \$35,000, principal amount, of the Akron & Barberton Belt Railroad Company's first-mortgage 40-year 4 per cent gold bonds, due 1942, issued under an indenture of mortgage, dated May 14, 1902, executed and delivered by the Akron & Barberton Belt Railroad Company to the United States Mortgage & Trust Company, of New York, as trustee. Said bonds are in definitive coupon form, having coupon due December 1, 1921, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered 1131 to 1140, inclusive, and 1216 to 1240, inclusive.

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(f) The applicant has agreed in an instrument in writing, dated the 21st day of July, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the

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<sup>1</sup> On file with the commission, but omitted from printed report.

United States shall not exceed  $7\frac{1}{2}$  per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan for additions and betterments, together with the entire amount to be financed by the applicant for additions and betterments, shall have been expended or definitely obligated for said purposes, or the entire loan for additions and betterments shall be repaid to the United States, on or before July 1, 1922. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 29th day of July, 1921.

70 I. C. C.



## FINANCE DOCKET No. 1493.

## IN THE MATTER OF THE APPLICATION OF THE MISSOURI PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ISSUE FIRST AND REFUNDING MORTGAGE BONDS.

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*Submitted June 20, 1921. Decided July 19, 1921.*

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Authority granted to issue from time to time \$5,501,500 of first and refunding mortgage bonds, series D, (a) by selling said bonds, or any part thereof, at not less than 90 per cent of their face value, or (b) by pledging and repledging said bonds, or any part thereof, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*Cravath, Henderson, Leffingwell & deGersdorff* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Missouri Pacific Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue from time to time \$5,501,500 of its first and refunding mortgage 6 per cent gold bonds, series D, (a) by selling said bonds, or any part thereof, at not less than 90 per cent of their principal amount, or (b) by pledging and repledging said bonds, or any part thereof, at not less than 75 per cent of their principal amount, as collateral security for any note or notes which it may issue under paragraph (9) of section 20a. No objection to the granting of the application has been offered.

Under date of April 2, 1917, the applicant executed and delivered its first and refunding mortgage to the Guaranty Trust Company of New York and Benjamin F. Edwards, trustees, to secure an authorized issue of \$450,000,000 of bonds. The bonds issued under this mortgage bear such rates of interest, not over 6 per cent per annum, as the board of directors may determine. The annual report of the applicant to the Interstate Commerce Commission shows that on December 31, 1920, there were outstanding \$40,525,500 of such bonds of series A, B, and C, all of which bear 5 per cent interest, and 70 I. C. C.

\$18,930,500 of series D, bearing 6 per cent interest per annum; also that there had been nominally issued \$12,533,000 of series-D bonds, of which \$3,501,500 were in the treasury and \$9,031,500 were pledged as collateral.

Under section 8 of article 3 of this mortgage, bonds may be authenticated and delivered by the corporate trustee to pay, or in reimbursement of, expenditures made after the date of the mortgage, for additions and betterments to the railroad properties, the construction of additional lines of railroad, extensions, and branches, the acquisition of lands from which coal, lumber, and other supplies may be obtained, and the construction or acquisition of, and additions and betterments to, rolling stock and floating equipment for the carrier.

The applicant has presented evidence that from June 1, 1917, to February 29, 1920, it expended from current funds for the acquisition of property and the construction, extension, betterment, and improvement of, or addition to, its facilities, sums aggregating \$8,041,086.24, against which it was entitled to draw down bonds under section (8) of article 3 of the mortgage; that prior to June 28, 1920, when said section 20a took effect, the corporate trustee authenticated and delivered to the applicant \$8,040,000 of bonds of series D under the mortgage provisions referred to and on account of the expenditures mentioned; and that of these bonds, \$2,538,500 have been pledged with the Secretary of the Treasury as part security for a loan from the United States to the applicant under section 210 of the transportation act, 1920, as amended.

This application relates to the remaining \$5,501,500 of said bonds which are now in the applicant's treasury. To enable it to reimburse its treasury in part for the expenditures made as aforesaid, and to obtain funds needed to enable it to meet its obligations, to extend and improve its facilities, and to operate efficiently as a common carrier, the applicant seeks the authority requested in this proceeding.

The bonds in question are dated February 1, 1919, will mature February 1, 1949, and bear interest at the rate of 6 per cent per annum, payable semiannually. All the bonds of series D, but not a part thereof, are redeemable on any interest date at 107½ per cent of par and accrued interest on 90 days' notice. No contracts, underwritings, or other arrangements have been made in connection with the sale of any of the bonds.

The application shows that the applicant has been authorized by the Public Service Commission of the State of Missouri, the Public Utilities Commission for the State of Kansas, and the Arkansas Corporation Commission to sell the entire \$8,040,000 of such bonds at not less than 90, or to pledge them at not less than 75. Similar authority

as to \$5,849,000 thereof has been granted to the applicant by the Public Service Commission of the State of Illinois.

We find that the proposed issue, by selling and/or by pledging and repledging, of said bonds by the applicant (*a*) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Missouri Pacific Railroad Company be, and it is hereby, authorized to issue from time to time \$5,501,500 of its first and refunding mortgage bonds, series D, (*a*) by selling said bonds, or any part thereof, at not less than 90 per cent of their face value and accrued interest, or (*b*) by pledging and repledging said bonds, or any part thereof, as collateral security for any note or notes which may be issued by it within the limitations of paragraph (9) of section 20a of the interstate commerce act without our authorization, such pledging to be in the ratio of not over \$100 in face value of bonds for each \$75, face amount, of notes.

*It is further ordered*, That said bonds shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, except as herein authorized.

*It is further ordered*, That the applicant shall report to this commission in writing within 10 days thereafter all pertinent facts relating to the sale of said bonds, or of any part thereof, each such report to be signed and verified by one of its executive officers having knowledge of the facts.

*It is further ordered*, That the applicant, within 10 days after the pledge or repledge of said bonds, or of any part thereof, shall file with this commission a certificate of notification to that effect; and within 10 days after the release of said bonds, or of any of them, from such pledge or repledge shall also report, in the manner above specified, all pertinent facts relating thereto.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to such bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1439.

IN THE MATTER OF THE APPLICATION OF THE BOSTON  
& MAINE RAILROAD FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY.

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*Submitted July 14, 1921. Decided July 20, 1921.*

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Certificate issued authorizing the abandonment of a branch line of railroad in  
Coos County, N. H.

*W. A. Cole* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Boston & Maine Railroad, a carrier by railroad subject to the interstate commerce act, on May 12, 1921, filed an application for a certificate that the present and future public convenience and necessity permit the abandonment of a branch line of the applicant's railroad extending from the station of Cherry Mountain to the station of Jefferson, both in Coos County, N. H., a distance of 3.5 miles. No representations were made by the authorities of the State of New Hampshire either for or against the granting of the application. The case was submitted without formal hearing.

The line in question was built in 1892 for the accommodation of summer-resort travel to and from a hotel and numerous cottages in the town of Jefferson. Practically no freight is handled. No service has been afforded except during the summer months. From June 25 to September 25 in each year applicant's trains on its Whitefield-Berlin line have been run over the branch in question to Jefferson and return. The growth of automobile travel has caused a steady diminution in the passenger traffic handled, so that in 1919 and 1920 the average number of passengers per train was three. In 1920 total freight revenues were \$88.40, and total passenger revenues \$319.65. Expenses of operation and maintenance greatly exceed the gross revenues. The summer resorts in the town of Jefferson are readily accessible over good highways to stations on applicant's main line or on a line of the Maine Central Railroad, the latter within a distance of 2.5 miles. There is no prospect that any new traffic will be available in the future.

There being no substantial need for continued operation of the branch, we find that the present and future public convenience and necessity permit its abandonment. A certificate to that effect will accordingly be issued.

*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Boston & Maine Railroad of its line of railroad between Jefferson and Cherry Mountain, N. H., described in the application and report aforesaid.

*It is ordered,* That said Boston & Maine Railroad be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Boston & Maine Railroad, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

## FINANCE DOCKET No. 1440.

## IN THE MATTER OF THE APPLICATION OF THE BOSTON &amp; MAINE RAILROAD FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted July 16, 1921. Decided July 20, 1921.*

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Certificate issued authorizing the abandonment of a branch line of railroad in Grafton County, N. H.

*W. A. Cole* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Boston & Maine Railroad, a carrier by railroad subject to the interstate commerce act, on May 12, 1921, filed an application for a certificate that the present and future public convenience and necessity permit the abandonment of a branch line of the applicant's railroad extending in a general southerly direction from a point 1,900 feet from the station of Bethlehem Junction to the station of Profile House, both in Grafton County, N. H., a distance of approximately 9.11 miles. No representations were made by the authorities of the State of New Hampshire either for or against the granting of the application. The case was submitted without formal hearing.

The line in question began operation in 1879 for the accommodation of passengers traveling to the summer resort known as Profile House. Very little freight has been handled. Trains have been operated over the line from June 25 to September 25 of each year. No service has been given for the remainder of the year. Due to the competition of automobiles, the traffic of the applicant's line has been reduced to practically nothing. This is substantiated by the fact that the average number of passengers per train during the year 1920 was two. Separate records for the branch have not been kept except for the year 1920. For that year the revenues amounted to \$1,713.23 and operating expenses to \$12,940.71, causing the applicant a loss of \$11,227.48. The applicant states that should the line be forced to operate it would be necessary to rebuild several trestles, estimating this would cost \$17,500 a year for the next six years. There are good highways connecting Profile House with other points served by railroad, the nearest being Bethlehem Junction, about

10 miles distant. There is no prospect of the traffic increasing in the near future.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the line in question. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Boston & Maine Railroad of its line of railroad extending from a point 1,900 feet from Bethlehem Junction station, N. H., to Profile House station, N. H., described in the application and report aforesaid.

*It is ordered,* That said Boston & Maine Railroad be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Boston & Maine Railroad, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.



## FINANCE DOCKET No. 1442.

## IN THE MATTER OF THE APPLICATION OF THE CHESAPEAKE &amp; OHIO RAILWAY COMPANY FOR AUTHORITY TO ISSUE BONDS AND TO PLEDGE A PART THEREOF.

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*Submitted May 23, 1921. Decided July 20, 1921.*

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Authority granted to nominally issue \$8,539,238.19 of series-A first-lien and improvement 20-year bonds in respect of expenditures made for refunding and construction, and, as the right thereto shall accrue, for additions and betterments; and to pledge \$6,674,000 of said bonds as collateral security for loans from the United States under section 210 of the transportation act, 1920, as amended.

*A. C. Rearick* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chesapeake & Ohio Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to nominally issue \$8,836,642.35 of first-lien and improvement bonds, and to pledge \$6,674,000 thereof with the Secretary of the Treasury as collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended. No objection has been made to the granting of the application.

The bonds are proposed to be nominally issued under the applicant's mortgage and deed of trust dated December 1, 1910, to the United States Mortgage & Trust Company and William H. White, trustees (John M. Miller, jr., successor as individual trustee), which provides for the issue of not to exceed \$125,000,000 first-lien and improvement bonds, maturing December 1, 1930, and bearing interest at a rate not exceeding 5 per cent per annum, payable semiannually. Bonds amounting to \$58,303,000 heretofore have been nominally issued, of which \$58,007,000 have been pledged as collateral security and \$296,000 remain in the applicant's treasury.

The mortgage provides for the issue of bonds to reimburse the applicant for expenditures made from income for the purchase of certain prior-lien mortgage bonds of merged companies; for the acquisition, by construction or otherwise, of additional lines of railroad, including branches and extensions; and for the issue of not to

exceed \$2,500,000 of bonds in any six months' period ending June 30 or December 31 to constitute a working fund for additions and betterments, when it is shown to the trustee that expenditures equal to the principal amount of the last similar issue have been made for the purposes named in the mortgage.

The applicant represents that it has made actual cash expenditures for prior-lien mortgage bonds of merged companies as follows:

Original mortgage.	Bonds.	Cash expenditures.
Big Sandy Ry. Co. first mortgage-----	\$179, 000	\$130, 747. 50
Coal River Ry. Co. first mortgage-----	129, 000	92, 692. 50
Greenbrier Ry. Co. first mortgage-----	44, 000	34, 233. 75
Raleigh & Southwestern Ry. Co. first mortgage-----	14, 000	9, 990. 00
Total -----	366, 000	267, 663. 75

It also represents that it has added 43.0975 miles of extensions to its operating railroad property during the periods from May 16, 1916, to December 31, 1916, and from January 1, 1918, to November 30, 1920, at a total cost of \$935,314.37.

It is alleged that the foregoing expenditures were made from accumulated income, and reimbursement of applicant's treasury therefor, in accordance with the mortgage, is desired.

The applicant plans to make extensive additions and betterments to its property in the near future, which will be financed with the proceeds of first-lien and improvement bonds or with the proceeds of loans for which the bonds will be pledged as collateral security. The applicant is represented to be without adequate funds with which to undertake this financing and therefore seeks to avail itself of the benefit of those provisions of the mortgage allowing it to issue bonds to furnish a working fund for additions and betterments. It proposes to issue \$7,500,000 of said bonds in three installments of \$2,500,000 each, issuable for the six months' periods ending, respectively, June 30, 1916, December 31, 1916, and June 30, 1917.

The applicant will procure authentication and delivery of all the bonds at 90 per cent of their face amount, as authorized by section 9 of article 2 of the mortgage.

Recapitulated, the applicant's purpose is to issue said bonds as follows:

	Expenditures.	Bonds issued.
To reimburse its treasury for expenditures made for underlying bonds-----	\$267, 663. 75	\$297, 404 .16
To reimburse its treasury for expenditures made for extensions -----	935, 314. 37	1, 039, 238. 19
To furnish a working fund for additions and and betterments (approximate)-----	6, 750, 000. 00	7, 500, 000. 00
Total -----	7, 952, 978. 12	8, 836, 642. 35

The applicant made application under section 210 of the transportation act, 1920, as amended, for a loan to aid it in making additions and betterments, and in our certificate No. 85, dated April 16, 1921, to the Secretary of the Treasury, in *Loan to Chesapeake & Ohio R. R.*, 67 I. C. C., 407, we authorized the making of a loan by the United States of \$5,338,000 in four parts, conditioned upon the pledge pro rata as each part of the loan is obtained of \$6,674,000 of first-lien and improvement bonds. The bonds proposed to be pledged include the \$296,000 heretofore nominally issued and now held in the applicant's treasury.

Authority to issue bonds to reimburse applicant's treasury for expenditures made to acquire underlying bonds is denied.

We find that the nominal issue of \$8,539,238.19 of first-lien and improvement bonds as aforesaid, and the pledge of a part thereof by the applicant (*a*) are for lawful objects within its corporate purposes and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by the applicant of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chesapeake & Ohio Railway Company be, and it is hereby, authorized to nominally issue \$8,539,238.19, principal amount, of series A first-lien and improvement 20-year bonds, as the right thereto has accrued and shall accrue, under and pursuant to, and to be secured by, the applicant's mortgage and deed of trust dated December 1, 1910, to the United States Mortgage & Trust Company and William H. White, trustee (John M. Miller, jr., successor as individual trustee); said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on the 1st day of June and of December in each year, and to mature December 1, 1930; and to pledge \$6,674,000, principal amount, of said bonds with the Secretary of the Treasury as collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended, as specified in certificate No. 85 of this commission, in Finance Docket No. 935.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until otherwise ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission in writing all pertinent facts relating to the nominal issue, pledge, and release from pledge of said bonds; said reports to be made within 10 days after such nominal issue, pledge, and release from pledge, respectively, and to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET 1509.

## IN THE MATTER OF THE APPLICATION OF THE GREAT NORTHERN RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN THE ACQUISITION OF ADDITIONAL EQUIPMENT.

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*Submitted June 30, 1921. Decided July 20, 1921.*

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Application granted in part and loan of \$586,000 approved.

*Ralph Budd* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Great Northern Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 22, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, to aid the applicant in meeting its maturing indebtedness and in providing itself with equipment and other additions and betterments, and on June 21, 1920, supplemented the application.

By our certificate No. 13, of July 28, 1920, as amended and supplemented, to the Secretary of the Treasury, in *Loan to Great Northern Ry.*, 65 I. C. C., 78, 139, 258, we approved a loan of \$17,910,000 to the applicant for the purposes aforesaid, one of the conditions of said loan being that the applicant should later file application for a loan in respect of the construction or purchase of 500 refrigerator cars. On June 30, 1921, the applicant made application to us for a further loan in respect of said equipment and July 16, 1921, supplemented the application.

In said application as supplemented the applicant sets forth:

1. That the amount of the additional loan desired is \$606,000.
2. That the term for which the loan is desired is 15 years.
3. The purposes of the loan and the uses to which it will be applied.
4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.
5. That the security offered is \$750,000, principal amount, of applicant's general-mortgage series-A 7 per cent gold bonds, due July 1, 1936.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to acquire additional equipment for the proper handling of an increased production of perishable freight offered for transportation and otherwise properly to serve the transportation needs of the public.

The application was accomplished by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation, we find that the making in part of the requested additional loan by the United States, for the purposes and in the amounts as follows:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
500 forty-ton refrigerator cars, at \$2,284.64.....	\$1,142,320	.....	.....
1 steam ditcher.....	12,000	.....	.....
1 convertible pile driver and crane.....	20,000	.....	.....
Total.....	1,174,320	\$588,320	\$586,000

is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

*Certificate No. 105 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$586,000 by the United States to the Great Northern Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in providing itself with

additional equipment, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$586,000.

4. That the time from the making thereof within which the loan is to be repaid in full is 15 years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be repaid in 14 equal annual installments of \$39,000 consecutively in 1 to 14 years, and one installment of \$40,000 in 15 years from the making thereof.

(b) The loan shall be secured by the pledge of \$750,000 principal amount, of applicant's general-mortgage series-A 7 per cent gold bonds, due July 1, 1936, issued under an indenture of mortgage, dated January 1, 1921, executed and delivered by the applicant to the First National Bank of the City of New York, as trustee. Said bonds are in temporary form without coupons, exchangeable for definitive coupon bonds of the same series, same aggregate principal amount, substantially identical in tenor, and of authorized denominations when prepared. Said temporary bonds are in denomination of \$1,000 and are numbered 109651 to 110400, inclusive.

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan; and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid; and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security



as may be from time to time required; the securities pledged, together with any that may be pledged hereafter or may have been pledged heretofore as security for this loan, or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(f) The applicant has agreed in an instrument in writing, dated the 25th day of July, 1921, filed with the Interstate Commerce Commission, to the following conditions: The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 7 per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States; and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 18th day of August, 1921.

70 I. C. C.

## FINANCE DOCKET No. 974.

## IN THE MATTER OF THE APPLICATION OF THE JACKSON &amp; EASTERN RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES FOR MEETING MATURITIES.

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*Submitted July 16, 1921. Decided July 21, 1921.*

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Applicant's prospective earning power and the security offered held not to justify the loan requested. Application denied.

*S. A. Neville* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Jackson & Eastern Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 10, 1920, made application to us for a loan of \$100,000 from the United States under section 210 of the transportation act, 1920, for a term of five years, for the purpose of aiding the applicant in meeting its maturing indebtedness and extending its line in Mississippi. On July 12 and August 20, 1920, the applicant amended its application, requesting a loan of \$25,000 for the purpose of aiding it in meeting its maturing indebtedness.

The security offered for the proposed loan consists of \$62,500 of applicant's 6 per cent first-mortgage bonds, due February 2, 1920.

The applicant's line extending from a connection with the Meridian & Memphis Railway and the Gulf, Mobile & Northern Railroad, at Union, Miss., to Sebastopol, Miss., has been under operation since December, 1916, and is owned entirely by its president and general manager, S. A. Neville.

We find that the prospective earning power of the applicant and the character and value of the security offered are not such as to afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States. The application is therefore denied.

An appropriate order will be issued.

70 I. C. C.

**ORDER.**

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the said application be, and it is hereby, denied.

70 I. C. C.

## FINANCE DOCKET No. 1213.

## IN THE MATTER OF THE APPLICATION OF THE ALABAMA, FLORIDA &amp; GULF RAILROAD COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted July 11, 1921. Decided July 22, 1921.*

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Authority granted to issue for cash \$150,000 of first-mortgage 7 per cent sinking-fund gold bonds, the proceeds to be used in constructing extensions to applicant's railroad heretofore authorized.

*Hays & Wadhams and Farmer, Merrill & Farmer* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Alabama, Florida & Gulf Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue for cash \$150,000 of first-mortgage 7 per cent sinking-fund gold bonds. No objection has been made to the granting of the authority requested.

The applicant owns and operates a railroad extending southerly from Cowarts, Ala., a point on the Atlantic Coast Line Railroad, to Greenwood, Fla., a distance of about 32 miles. It proposes to build two extensions to its railroad, one from a point on its line near Wilson, Ala., northward to Dothan, Ala., approximately 4 miles; the other from Greenwood, Fla., southward to Marianna, Fla., approximately 9 miles. By our order of June 30, 1921, in *Public Convenience Certificate to Ala., Fla. & Gulf R. R.*, 70 I. C. C., 53, a certificate of public convenience and necessity was issued granting authority to construct the proposed extensions.

The right of way and \$40,000 in cash have been or will be donated to aid in the construction of these extensions, the estimated cost of which, exclusive of the right of way, is given as \$158,779.02. To procure funds to pay for the cost of construction, the applicant proposes to execute as of April 1, 1921, and deliver to the Chatham & Phoenix National Bank of New York, as trustee, a first mortgage on its railroad, a copy of which was filed with the application, and to issue thereunder \$150,000 of first-mortgage sinking-fund gold bonds. The bonds will bear interest at the rate of 7 per cent per annum,

70 I. C. C.

payable semiannually on April 1 and October 1 in each year, will mature April 1, 1941, will be redeemable at the option of the applicant at any time subsequent to April 1, 1923, at 107 per cent of par, and will be payable to bearer with interest coupons annexed, registrable as to principal only.

The applicant represents that the bonds will be sold at not less than 80 per cent of par, and that there will be no cost of the issue and sale. Such a selling price will result in an excessive cost to the applicant. We will therefore authorize the issue of these bonds only upon condition that they be sold to net the applicant not less than 90 per cent of par.

We find that the issue by applicant of \$150,000 of first-mortgage 7 per cent gold bonds on the condition hereinabove stated (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Alabama, Florida & Gulf Railroad Company be, and it is hereby, authorized to issue \$150,000, principal amount, of first-mortgage 7 per cent sinking-fund gold bonds under and pursuant to, and to be secured by, a first mortgage, to be made by the applicant as of April 1, 1921, to the Chatham & Phoenix National Bank of New York, trustee, said bonds to bear interest at the rate of 7 per cent per annum, payable semiannually on the 1st day of April and of October in each year, to mature April 1, 1941, and to be substantially in the form set forth in the mortgage submitted: *Provided, however,* That said bonds shall be sold to net the applicant not less than 90 per cent of par; the proceeds to be used solely to defray the cost of constructing extensions to applicant's road authorized by our certificate in Finance Docket No. 1420, any excess in the proceeds above the amount necessary for such purpose to be held for such use as this commission may hereafter approve.

*It is further ordered,* That the said bonds shall not be issued unless and until an authenticated copy of the mortgage as executed shall have been on file with this commission for at least 10 days.

*It is further ordered,* That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue of said bonds, and for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days after the close of such period, shall report to this commission the application of the proceeds therefrom, specifying the purpose for which used and the account or accounts charged therewith, and continue to make such reports periodically until all of the proceeds shall have been applied; each report to be signed and verified by an executive officer of the applicant having knowledge of the facts contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 950.

IN THE MATTER OF THE APPLICATION OF THE DELAWARE & HUDSON COMPANY FOR A LOAN FROM THE UNITED STATES TO PROVIDE EQUIPMENT AND ADDITIONS AND BETTERMENTS.

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*Approved July 27, 1921.*

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DIVISION 4, COMMISSIONERS MEYER AND EASTMAN.

*Certificate of Cancellation.*

The Interstate Commerce Commission hereby cancels its certificate No. 16, as amended and supplemented, to the Secretary of the Treasury, for a loan of \$1,125,000 to the Delaware & Hudson Company, under section 210 of the transportation act, 1920, as amended.

Done in Washington, D. C., this 26th day of July, 1921.



## FINANCE DOCKET No. 1227.

## IN THE MATTER OF THE APPLICATION OF THE MINNEAPOLIS &amp; ST. LOUIS RAILROAD COMPANY FOR AUTHORITY TO ISSUE REFUNDING AND EXTENSION MORTGAGE BONDS.

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*Submitted July 19, 1921. Decided July 27, 1921.*

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Authority granted to pledge and repledge from time to time all or any part of \$714,000 of refunding and extension mortgage 5 per cent gold bonds as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*M. L. Bell* for applicant.

## SECOND SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

In our supplemental order dated July 1, 1921, 70 I. C. C., 56, authority was granted to the Minneapolis & St. Louis Railroad Company to issue \$714,000 of its refunding and extension mortgage 5 per cent gold bonds, such bonds to be placed in its treasury for subsequent disposition under our order.

The applicant has now filed a supplemental application wherein it seeks authority under section 20a of the interstate commerce act to pledge and repledge, from time to time, the aforesaid \$714,000 of bonds as collateral security for any note or notes which it may issue within the limitations prescribed by paragraph (9) of section 20a of that act without our authorization therefor having been first obtained.

We find that the proposed pledge and repledge by the applicant of all or any part of \$714,000 of its refunding and extension mortgage 5 per cent gold bonds (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

## SECOND SUPPLEMENTAL ORDER.

Further investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact, and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That, until otherwise ordered by this commission, the Minneapolis & St. Louis Railroad Company be, and it is hereby, authorized to pledge and repledge, from time to time, all or any part of \$714,000, principal amount, of its refunding and extension mortgage 5 per cent gold bonds (now held in its treasury), as collateral security for any note or notes which may be issued by the said applicant within the limitations of paragraph (9) of section 20a of the interstate commerce act without our authorization therefor having been first obtained; such pledge or pledges to be in the ratio of not exceeding \$125 in value of bonds, at their prevailing market price at the time of pledge, for each \$100, face amount, of notes.

*It is further ordered,* That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant, within 10 days after the pledge or repledge of any of its bonds as herein authorized, shall file with this commission certificates of notification to that effect; and, within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1249.

## IN THE MATTER OF THE APPLICATION OF THE TEXAS CITY TERMINAL RAILWAY COMPANY FOR AUTHORITY TO ISSUE COMMON STOCK AND FIRST-MORTGAGE BONDS.

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*Submitted June 13, 1921. Decided July 27, 1921.*

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1. Authority granted (a) to issue 5,000 shares of common capital stock of the par value of \$100 per share, (b) to deliver 4,996 shares of said stock at par in part payment for certain railroad property, and (c) to sell four shares of said stock at par for cash.
2. Authority granted (a) to issue \$1,984,300 of 20-year sinking-fund 6 per cent first-mortgage gold bonds, and (b) to deliver said bonds at face value in part payment for said railroad property.

*W. T. Armstrong* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Texas City Terminal Railway Company, a corporation organized for the purpose of engaging in transportation by railroad, subject to the interstate commerce act, has duly applied for authority under section 20a of the interstate commerce act to issue 5,000 shares of common capital stock, of a par value of \$100 per share, and \$1,984,300 of its first-mortgage gold bonds, to be used in payment for property purchased and which the applicant intends to operate. No objection has been made to the granting of the application.

The property which the applicant proposes to operate was formerly owned by the Texas City Transportation Company, hereinafter called the transportation company, and consists of approximately 1,200 acres of land in Texas City, Tex., adjacent to the water front of Galveston Bay, on which there is a frontage of over 2 miles, together with a terminal or belt railroad which connects the Galveston, Houston & Henderson Railroad, the Galveston, Harrisburg & San Antonio Railway, and the Gulf, Colorado & Santa Fe Railway with the water front. Two large piers are also included, with a total working face of 5,765 feet.

This property was purchased by Augustus S. Peabody for \$500,000 at a sale held August 3, 1920, under a judgment dated June 11, 1920, made in an action foreclosing the mortgage securing the first-mort-

gage bonds of the transportation company. It appears that this purchaser acted for Peabody, Houghteling & Company, of Chicago, Ill., who represent the holders of about 93 per cent of the outstanding first-mortgage bonds of the transportation company, who had given their consent to the reorganization plans now being carried out, and it is now proposed to sell the property to the applicant, which has recently been organized for the purpose of acquiring and operating it, accepting as payment therefor the securities herein sought to be issued.

In April, 1919, Peabody, Houghteling & Company, with the consent of these bondholders, attempted to effect a reorganization of the transportation company, but was unsuccessful because of the refusal of one stockholder to participate. The property was then placed in the hands of a receiver. Under the agreement with the bondholders Peabody, Houghteling & Company made all expenditures and performed, or arranged for the performance of, all services in connection with the receivership, foreclosure, and reorganization during a period of nearly two years. These services and expenses included all preliminary negotiations for the proposed reorganization, the necessary services connected with the receivership and foreclosure, and the payment of approximately \$52,250, to cover trustee's, attorneys', and receiver's fees, court costs, etc. This company also employed counsel and arranged for the preparation of the mortgage and bonds of the applicant. The agreement further provided that Peabody, Houghteling & Company should receive 4,996 shares of stock in part payment for the services rendered and expenses incurred. The remaining four shares are to be sold at par as directors' qualifying shares.

Pursuant to the reorganization plan the stock is to be deposited with a trustee in trust for the holders of the first-mortgage bonds, with the proviso that if the owners of the stock shall fail to pay interest on the bonds, in the event of the default by the company, the stock shall become the property of the bondholders. This pledge of stock, however, is to continue for a period of two years only.

The proposed bonds are to be issued under a mortgage dated January 26, 1921, given by the applicant to the Central Trust Company of Illinois, and now of record in Galveston County, Tex., authorizing the issue of \$2,500,000 of 20-year bonds, of which 3,300 are to be \$100 bonds, 1,030 are to be \$500 bonds, and 1,655 are to be \$1,000 bonds. These bonds, which are to be known as 20-year sinking-fund 6 per cent first-mortgage gold bonds, are to be dated January 26, 1921, to bear interest at the rate of 6 per cent per annum, the first three installments thereof to be payable on or before January 26, 1923, the fourth installment January 26, 1923, and the remaining installments

thereafter semiannually on the 26th day of July and January in each year. The bonds are redeemable at par and accrued interest on any interest day. Provision is made for such redemption by a sinking fund of 10 per cent of the net earnings of the company.

Of these bonds, \$1,984,300 are to be issued immediately, of which \$1,945,856.34 represents the amount due on the first-mortgage bonds of the transportation company and \$38,443.66 represents the cost of a monorail system, which had been used by the transportation company under a lease. The above-mentioned holders of about 93 per cent of the first-mortgage bonds of the transportation company who consented to the reorganization plans are to receive a like percentage of the proposed bonds, each receiving in new bonds at par the amount due for principal and interest to January 26, 1921, on the old bonds held by him. The remainder of the proposed bonds, which represents the interest of the nonconsenting holders of the old bonds, is to go to Peabody, Houghteling & Company as additional payment for their services and expenses in connection with the foreclosure proceedings.

The transportation company has not considered itself subject to the jurisdiction of this commission and has never filed reports with us. This company had leased its railroad property to the Texas City Terminal Company, hereinafter called the terminal company, and the latter was and is a common carrier by railroad subject to the interstate commerce act. During the receivership pending the foreclosure proceeding and after the purchase of the property by Augustus S. Peabody, the terminal company continued to operate this railroad under leases.

At the date of foreclosure of the mortgage the transportation company had outstanding the following securities:

Preferred stock-----	\$300,000
Common stock-----	2,500,000
First-mortgage bonds-----	1,946,500
Second-mortgage bonds (matured)-----	425,000
	<hr/>
Total capital securities-----	5,171,500
Unsecured notes-----	1,300,000

The value of its property, as determined by the Texas Railroad Commission in June, 1916, is shown as \$4,920,088.84, since which time it is alleged permanent improvements and betterments have been added. A copy of the transportation company's balance sheet for the year ended August 20, 1920, shows investment in road and equipment of \$5,301,725.47. The equipment consists of 4 locomotives, 40 freight cars, and 3 passenger cars. All this property was included in the mortgage foreclosed and in the sale to Peabody hereinbefore mentioned. It is also all included in the deed by Peabody to the appli-

cant which has been executed, acknowledged, and apparently delivered.

The applicant has submitted a statement of income account of the transportation company for the year ended August 20, 1920, showing interest on funded debt of \$111,666.32 and a net deficit of \$53,627.54. The annual reports of the terminal company for the years 1912 to 1920, inclusive, show the following:

<sup>1</sup> \$45,870.96 from Jan. 1 to Aug. 20 paid to Texas City Transportation Company, and \$76,641.03 from August 21 to Dec. 31 paid to A. S. Peabody.

The bonded indebtedness to which the property is subject is not increased by the reorganization, and increased business is anticipated. The applicant's future success is intimately connected with the movement of water-borne traffic into and out of the port of Texas City. The following figures show the movement of vessels and tonnage at this port for the years 1914 to 1920, inclusive:

Years.	Vessels.	Cargo tonnage.	Value.
1914.....	422	317,813	\$34,994,595
1915.....	346	309,788	41,593,481
1916.....	135	318,393	47,776,399
1917.....	97	265,631	12,225,502
1918.....	143	376,926	20,307,783
1919.....	236	801,782	40,988,030
1920.....	541	2,493,184	76,080,739

Prior to the European war Texas City is said to have been the fourth largest cotton-shipping port in the United States. With the advent of the war practically all foreign shipping was withdrawn from the Gulf ports and concentrated along the Atlantic seaboard, as a result of which both the transportation company and the terminal company suffered heavy losses. During the past year business has gradually returned to Texas City. For the first five months of 1921 283 vessels touched at that port, representing 171,641 short tons of inbound traffic and 1,397,779 short tons of outbound traffic. The principal commodities handled were: Grain, 8,180,919 bushels; sulphur, 65,457 short tons; and oil, 7,960,274 barrels. Total revenues 70 I. C. C.

during this period were \$245,991.49; expenses, including taxes, were \$103,914.26; and net earnings, \$142,077.23. Cash on hand is shown as \$128,828.39. The applicant states that advantageous leases of land have been executed with four large oil companies; that its elevator facilities are booked to capacity with a contract movement of grain extending over the next year; and contracts have been made which will insure the movement through the port of a large volume of sulphur. With the return to normal of the movement of cotton, applicant believes that Texas City will resume its former place among the cotton-shipping ports, and that the showing for the first five months of this year is fairly indicative of what may be expected in the future.

Under Article III, section 8, of the mortgage the applicant covenants to furnish Peabody, Houghteling & Company upon demand, but at the expense of the applicant, with an annual audit of its books, affairs, and business as of March 1, which audit is to be furnished so long as any of the bonds are outstanding; also to furnish such other financial statements as may be requested. Article VII provides, generally, that the applicant may, but only after obtaining the consent of Peabody, Houghteling & Company, sell, lease, dedicate or donate, or convey any property subject to the indenture, the proceeds to be used for the purchase of bonds, or for purposes specified in Article I. By giving any of these consents, Peabody, Houghteling & Company incur no liability whatsoever, neither is any liability incurred by the trustee in executing any releases in connection therewith. Article XVII, section 3, provides that, in the event of the dissolution of Peabody, Houghteling & Company, leaving no firm or corporation successor thereto, or in the event an agreement shall be entered into between the applicant, the trustee, and Peabody, Houghteling & Company waiving the giving of such consents, the discretionary authority theretofore invested in Peabody, Houghteling & Company shall vest in the trustee.

The reason for these provisions in the mortgage is not clear. Through their control of the applicant by stock ownership Peabody, Houghteling & Company are in a position to control all of the matters specified. Should they part with control through such ownership of *a majority of the stock*, it would not be proper for them to retain the control conferred by the above-mentioned provisions of the mortgage. These provisions, therefore, seem to be unnecessary in the first instance and improper in the second.

As a condition precedent to our authorization of the securities applied for the applicant will be required, with the consent of the trustee named in the mortgage, to execute and record, in the office where the mortgage is recorded, an instrument amending or modifying the mortgage of January 26, 1921, by canceling and annulling



paragraphs 1 and 2 of section 8 of Article III and section 3 of Article XVII, and by eliminating from section 1 of Article VII all reference to Peabody, Houghteling & Company. As no bonds have yet been issued under the mortgage (not having been authorized by us) no rights of bondholders will prevent this modification of the mortgage.

We find that the proposed issue by the applicant of the stock and bonds mentioned (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by the applicant of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Texas City Terminal Railway Company be, and it is hereby, authorized (1) to issue 5,000 shares of its common capital stock of a par value of \$100 per share; (2) to deliver 4,996 shares of said stock to Augustus S. Peabody, of Peabody, Houghteling & Company, Chicago, Ill., at par in part payment for the purchase of the railroad property formerly owned by the Texas City Transportation Company, as more fully described in the application; and (3) to sell four shares of said stock at par for cash, for use as directors' qualifying shares.

*It is further ordered*, That the Texas City Terminal Railway Company be, and it is hereby, authorized (1) to issue \$1,984,300, principal amount, of its 20-year sinking-fund first-mortgage gold bonds under and pursuant to, and to be secured by, the mortgage dated January 26, 1921, made by the applicant to the Central Trust Company of Illinois; said bonds to be dated January 26, 1921; to bear interest at the rate of 6 per cent per annum, the first three installments thereof to be payable on or before January 26, 1923, the fourth installment on January 26, 1923, and the remaining installments thereafter semiannually on the 26th day of July and of January in each year; to mature January 26, 1941, and to be substantially in the form set forth in said mortgage; and (2) to deliver said bonds at their face value to said Augustus S. Peabody in part payment for the purchase of said railroad property: *Provided, however*, That no bonds shall be issued or delivered until said mortgage has been

amended or modified to conform with the requirements outlined in the aforesaid report of this commission.

*It is further ordered*, That said bonds shall not be issued and sold unless and until an authenticated copy of the mortgage as executed, and of the instrument modifying or amending it, shall have been on file with this commission at least 10 days.

*It is further ordered*, That, except as herein authorized, said common capital stock and said mortgage bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until otherwise authorized by a future order of this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the issue of said stock and bonds, each of said reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, or as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1264.

## IN THE MATTER OF THE APPLICATION OF THE GREEN BAY &amp; WESTERN RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted June 9, 1921. Decided July 27, 1921.*

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Proposed abandonment of branch line of railroad between Onalaska and La Crosse, Wis., held not justified. Application denied.

*Cowie & Hale* for applicant.

*A. H. Long* for Railroad Commission of Wisconsin.

*O. J. Swennes* for city of La Crosse.

*W. W. West* for La Crosse Chamber of Commerce.

## REPORT OF THE COMMISSION. •

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Green Bay & Western Railroad Company, a carrier by railroad subject to the interstate commerce act, on March 7, 1921, filed its application for a certificate that public convenience and necessity permit the abandonment by the applicant of its branch line of railroad between Onalaska and La Crosse, Wis., a distance of 6.38 miles, and of the operation of its trains under trackage rights over the lines of the Chicago & North Western Railway Company between Onalaska and Marshland, Wis., a distance of 21.59 miles.

Objections were interposed at the hearing by the Railroad Commission of Wisconsin and by the city of La Crosse, the former contending that paragraph (18) of section 1 of the act is unconstitutional and confers no power to authorize cessation of intrastate operations, and the latter asserting that the facts do not under the law warrant the granting of the application.

The applicant operates a line of railroad extending from Green Bay, Wis., in a westerly direction across the State to Winona, Minn., on the west side of the Mississippi River, a distance of approximately 212 miles. At Marshland, on the east side of the river, it connects with a line of the Chicago & North Western Railway Company, hereinafter termed the North Western, and one mixed train a day each way is operated by the applicant over the North Western line between Marshland and Onalaska under trackage rights. Between the latter point and La Crosse, operation of such train is carried on over the applicant's own rails. The trackage agreement

referred to calls for the payment by the applicant of \$7,000 per year and is terminable by either party on 30 days' notice.

The applicant's branch line connects at a point known as Grand Crossing with the North Western, the Chicago, Burlington & Quincy Railway, hereinafter called the Burlington, and the Chicago, Milwaukee & St. Paul Railway. Handling of interchange traffic into and out of La Crosse over applicant's rails to and from this connection is purely a switching movement and the applicant does not participate in the line haul as to such traffic. It does, however, handle considerable freight and a small amount of passenger traffic between the La Crosse-Marshland line and points on its main line as far east as Merrilan. Jobbers and merchants in La Crosse compete for business in that territory with similar concerns at Winona which enjoy rates to and from La Crosse based on a single-line movement. They contend that the abandonment of applicant's service to and from La Crosse will compel them to ship to points on the applicant's main line over the North Western or the Burlington, via the connection at Marshland or East Winona, and that this will subject them to the payment of rates based on the Wisconsin distance tariff, or the sum of two local rates. Being unable to pass these freight charges on to their customers, they will be driven out of the territory by the competition of Winona. They show that when the branch in question was built, about 45 years ago, the city of La Crosse granted a considerable sum to the applicant in aid of its construction in order to secure its competition with the only trunk line then in operation from La Crosse north.

A considerable amount of dock coal moves from Green Bay over the applicant's line to consumers at La Crosse who are located on the branch line and have at present no other service. Other coal is moved to destination on the branch from connections at Grand Crossing. Among the plants using applicant's service are the pumping station of the city waterworks, the heating plant of the State normal school, and the local gas and electric company, which uses both steam and gas coal, its supply of the former usually moving all rail, and of the latter, under normal conditions, by boat to Lake Michigan docks and thence over the applicant's main line. During the period from January 1, 1917, to March 1, 1921, the applicant collected from this shipper freight charges on coal amounting to \$70,618.46, of which its own proportion was \$49,734.21. There are also four other industries which have no rail service other than that of the applicant. The city pumping station and normal-school heating plant are so located that they can not be reached by any other carrier except by building a considerable length of spur track over marshy ground, which would require a large amount of fill. Less than three years

ago the applicant, under an order of the railroad commission, provided a spur track to the normal school, the cost of which was paid by the State. The grounds of the Interstate Fair Association are served solely by the applicant.

In support of its position the applicant shows that the cost of construction of the 6.38 miles of line in 1876 was \$114,319.66; and that for the period from 1911 to 1920, both inclusive, the operating revenues of the entire branch between Marshland and La Crosse were \$25,957.35 and the operating expenses \$223,433.56, leaving an operating deficit of \$197,476.21. These figures were obtained by allocating revenues and general expenses to the branch on a mileage basis and taking the actual train-expense and maintenance items as they appear on the books. It is contended that the line-haul traffic over the branch is of small importance when compared with the cost of operation, and that the purely switching service performed can be easily rendered by one of the line-haul carriers if it will purchase and operate the 2 miles of line south of Grand Crossing. There is nothing in the record, however, to indicate that such a sale can be made. Applicant also fears that the North Western may at some future time insist upon an increase in the track rentals and cancel the agreement if such increase is not agreed to. The chief contention of the applicant, however, is that since the branch itself can not be operated so as to be self-sustaining, it is justified in abandoning the service.

An examination of the applicant's records for its entire system, however, places the matter in a somewhat different light. According to its balance sheet as of December 31, 1920, investment in road and equipment was \$10,353,838.32. Its outstanding capital stock was \$2,500,000 and unmatured funded debt amounted to \$7,600,000. The total corporate surplus as of that date was \$851,647.43. The income account for the year 1920 shows net income of \$231,612.46, and the average net income for the last seven years was in excess of that amount. A dividend of 5 per cent on the common stock was paid from net income for the year 1919. The operating ratio for the year 1920 was 89.63 per cent.

The showing thus made on the system as a whole negatives the applicant's contention that losses incurred in operating the branch in question must be considered as justifying its abandonment. It has uniformly been held that the cessation of a particular service is not to be justified merely because it results in a loss, considered by itself, and that consideration must be given to the business as a whole. *Atlantic Coast Line v. N. Car. Corp. Com.*, 206 U. S., 1; *Mo. Pac. Ry. Co. v. Kansas*, 216 U. S., 262; *Puget Sound Traction Co. v. Reynolds*, 244 U. S., 574; *Groesbeck v. Duluth, S. S. & A. Ry. Co.*, 250 U. S., 607; *New York & Queens Gas Co. v. McCall*, 245 U. S., 345; *Milw. Elec. Ry. & Light Co. v. R. R. Comm. of Wis.*, 177 N. W., 25.

Applying the principle of the above decisions, it is clear that the results of operation of the branch in question, when reflected in the accounts of the system as a whole, are not such as to call for the granting of relief, in view of the showing made as to the public need for the service. This is not a case where the demand for continued service is so small and unimportant as to permit the cessation of such service irrespective of the profits or losses incurred in operation.

We have held that the cessation of operations under ordinary track-age rights is not prohibited by paragraph (18) of section 1 of the interstate commerce act. No finding will be made, therefore, with respect to the cessation of operations between Marshland and Onalaska.

With respect to the 6.38 miles of line between Onalaska and La Crosse, however, we do not think that the applicant should now be permitted to abandon operation.

It is quite possible, however, that arrangements can be perfected whereby the public may be afforded substantially the same service as heretofore, and at the same time relieve the applicant of the burden of operation of the branch. If the applicant can bring such an arrangement about, it may file for our approval a schedule of joint rates applicable between La Crosse and points on its main line, on traffic moving over such line and the La Crosse-Winona line of the North Western, such rates to be no higher than the corresponding single-line rates now in effect. At the same time the applicant should present satisfactory proof of some arrangement between it and one of the trunk-line carriers above named whereby one of the latter will be able to give service to those parties now served by applicant's industry tracks, including the normal school and the city of La Crosse. Upon a showing that the applicant has perfected such an alternative plan, we will entertain a petition for the reopening of this proceeding for further consideration.

On the facts presented, we are unable to find that the present or future public convenience and necessity permit the abandonment of the line between Onalaska and La Crosse. An order will be entered denying the application.

### ORDER.

A hearing having been held in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That the application be, and it is hereby, denied.

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## FINANCE DOCKET No. 1389.

## IN THE MATTER OF THE APPLICATION OF THE LAKE ERIE, FRANKLIN &amp; CLARION RAILROAD COMPANY FOR AUTHORITY TO ISSUE A NOTE AND TO ASSUME LIABILITY IN RESPECT TO EQUIPMENT-TRUST CERTIFICATES.

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*Submitted July 14, 1921. Decided July 27, 1921.*

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Authority granted to issue, from time to time, promissory notes for an aggregate face amount outstanding at any one time not to exceed \$25,000, in renewal of a promissory note for a like amount, the issue of which has heretofore been authorized in this proceeding. Order entered May 20, 1921, 67 I. C. C., 641, modified.

*J. S. Carmichael* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

## DIVISION 4. COMMISSIONERS MEYER, EASTMAN, AND POTTER.

## BY DIVISION 4:

The Lake Erie, Franklin & Clarion Railroad Company, by supplemental application filed in this proceeding on July 14, 1921, has duly applied for authority under section 20a of the interstate commerce act to renew from time to time, as occasion may arise, for a period of not exceeding two years, its promissory note in the face amount of \$25,000, the issue of which was authorized by our order entered herein on May 20, 1921, 67 I. C. C., 641.

Such renewals were duly authorized by the applicant's board of directors by a resolution adopted at a special meeting held March 22, 1921. A certified copy of this resolution was filed with the original application, which, nevertheless, contained no request for the authority now sought.

We find that the proposed issue of renewal notes by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate supplemental order will be entered.



## SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in the supplemental application herein having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof, and upon further consideration of the record in this proceeding, and for good cause shown:

*It is ordered*, That the Lake Erie, Franklin & Clarion Railroad Company be, and it is hereby, authorized to issue, from time to time, unless otherwise ordered, promissory notes for an aggregate face amount outstanding at any one time not to exceed \$25,000, bearing interest at the rate of 6 per cent per annum, in renewal of the note in the face amount of \$25,000, issued by the applicant pursuant to authority from this commission contained in the order entered in this proceeding on May 20, 1921: *Provided, however*, That the maturity of any note or notes so issued in accordance with the authority herein granted shall in no event extend beyond two years from and after the date of maturity of the note originally issued pursuant to said order of May 20, 1921.

*It is further ordered*, That said renewal notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, except as herein authorized.

*It is further ordered*, That the \$25,000 of preferred certificates and the deferred certificate in the amount of \$20,075 in respect of which the applicant was authorized by said order of May 20, 1921, to assume obligation and liability, shall be dated August 1, 1921, and entitle the holders thereof to dividends from that date, payable semi-annually on February 1 and August 1; and that the preferred certificates shall mature serially and semiannually beginning with February 1, 1922, and ending August 1, 1931, and the deferred certificate on February 1, 1932; the proposed equipment-trust agreement and lease mentioned and described in said order and in the original report in this proceeding to be modified accordingly.

*It is further ordered*, That the applicant shall report to this commission all pertinent facts relative to the issue of notes as herein authorized, within 10 days after every such issue; such reports to be signed and verified by an executive officer having knowledge of the facts contained therein.

*And it is further ordered*, That, except as hereby modified, the order entered in this proceeding on May 20, 1921, shall remain in full force and effect.

## FINANCE DOCKET No. 1404.

IN THE MATTER OF THE APPLICATION OF THE  
ALASKA ANTHRACITE RAILROAD COMPANY FOR  
AUTHORITY TO ISSUE BONDS.

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*Approved July 27, 1921.*

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DIVISION 4, COMMISSIONERS MEYER AND EASTMAN.

## SUPPLEMENTAL ORDER.

*It appearing,* That by the commission's order in this proceeding dated May 26, 1921, the Alaska Anthracite Railroad Company was authorized to issue \$1,500,000 of first-mortgage bonds under and pursuant to, and to be secured by, a first mortgage to be dated January 1, 1921, and made to the Bankers Trust Company, as trustee; that none of the bonds so authorized have been issued; that said mortgage has not been executed; and that the Alaska Anthracite Railroad Company has made a first mortgage dated January 1, 1921, to the National Park Bank of New York to secure the proposed issue of first-mortgage bonds, and desires to issue thereunder the bonds so authorized:

*It is ordered,* That the first granting paragraph of the order entered in this proceeding on May 26, 1921, be, and it is hereby, modified by substituting "National Park Bank of New York" for "Bankers Trust Company" as the name of the trustee under the applicant's first mortgage.

*It is further ordered,* That, except as herein modified, said order of May 26, 1921, shall remain in full force and effect.

## FINANCE DOCKET No. 1436.

IN THE MATTER OF THE APPLICATION OF THE  
SPRINGFIELD TERMINAL RAILWAY COMPANY FOR  
AUTHORITY TO ISSUE STOCK.

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*Submitted June 16, 1921. Decided July 27, 1921.*

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Authority granted to issue \$62,500 of capital stock at par for cash, the proceeds thereof to be used to pay certain indebtedness on capital account.

*W. M. Hopkins* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Springfield Terminal Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$100,000 of capital stock to liquidate current indebtedness and reduce outstanding demand notes. No objection has been made to the granting of the application.

The applicant is incorporated under the laws of Illinois with an authorized capital stock of \$75,000, of which \$50,000 has been issued. It proposes to increase its capital stock to \$150,000 and to sell the additional \$75,000 and the \$25,000 of authorized stock now unissued to the present stockholders at par. The proceeds of the sale will be used to pay current indebtedness of \$68,798.54 and to reduce outstanding notes amounting to \$45,000 by the payment of a demand note for \$30,000, dated April 4, 1919. These notes were issued and a part of the current indebtedness was incurred in connection with the construction of an extension of applicant's line for a distance of 2 miles.

Of the expenditures proposed to be covered by the stock issue only \$62,514 was for capital purposes, and only to that extent, approximately, will the proposed issue be authorized.

We find that the proposed issue of stock to the extent of \$62,500 by the applicant (a) is for lawful objects within its corporate purposes and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier and which will

not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Springfield Terminal Railway Company be, and it is hereby, authorized, upon duly increasing its authorized capital stock to not less than \$150,000, to issue \$62,500 of capital stock, of the par value of \$100, for cash at not less than par; the shares of stock so issued to be represented by certificates in the form submitted with the application, and the proceeds of the sale thereof to be used in payment of indebtedness for construction of 2 miles of railroad, as more fully set forth in said application.

*It is further ordered*, That said stock shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, nor shall the proceeds thereof be used, in any manner or for any purpose, except as herein authorized.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter, respectively, all pertinent facts relating to the issue of said stock, and the payment of said indebtedness, such reports to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

## FINANCE DOCKET No. 1483.

IN THE MATTER OF THE APPLICATION OF THE CISCO  
& NORTHEASTERN RAILWAY COMPANY FOR AUTHOR-  
ITY TO ISSUE STOCK AND BONDS.

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*Submitted June 25, 1921. Decided July 27, 1921.*

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Authority granted (1) to issue for sale at par \$264,950 of capital stock; and (2) to issue \$882,000 first-mortgage 10-year 6 per cent gold bonds, \$326,550 thereof to be used at par to pay certain promissory notes and accrued interest thereon; and the remaining \$555,450 of bonds to be sold at not less than 80 per cent of par, and/or to be pledged as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act; the proceeds to be applied to the costs of constructing and equipping applicant's line of railroad, and of additions, betterments, and extensions thereto.

*J. J. Butts* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

By DIVISION 4:

The Cisco & Northeastern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority, as of July 1, 1921, under section 20a of the interstate commerce act, (1) to issue for sale at par \$264,950 of its capital stock, that being the portion of stock authorized by its articles of incorporation remaining unissued at this time, and upon which subscriptions to the amount of \$158,075 have heretofore been paid; and (2) to issue \$882,000 of its first-mortgage 10-year 6 per cent gold bonds, \$326,550 thereof to be used at par to pay certain promissory notes and accrued interest thereon; and the remaining \$555,450 of bonds to be sold at not less than 80 per cent of par, and/or to be pledged as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of that act without our authorization therefor having first been obtained; the proceeds of such bonds or notes to be used to pay for the construction and equipping of, and additions, betterments, and extensions to, its railroad property. No objection has been made to the granting of the application.

The bonds are proposed to be issued under a mortgage or deed of trust to be given by the applicant to the Meridian Trust Company,  
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of Houston, Tex., trustee. A copy of the proposed mortgage has been filed in this proceeding. The bonds will bear interest at the rate of 6 per cent per annum, payable semiannually, and will mature 10 years from date.

The applicant was incorporated under the laws of Texas on December 4, 1918, with a total authorized capital stock of \$500,000 for the purpose of constructing and operating a railroad from Cisco, Eastland County, Tex., through Eastland, Stevens, and Young Counties, to Graham, in Young County, Tex., a total distance of approximately 70 miles. It has constructed that portion of the proposed railroad extending from Cisco to Breckenridge, in Stevens County, approximately 28 miles in length, and on August 1, 1920, placed the same in operation. The line constructed and in operation needs shop facilities, ballasting, passing tracks, yard facilities at Breckenridge, and additional equipment, representing a proposed additional investment of \$331,493.05.

The bond limitation as fixed by resolution of the applicant's board of directors is \$31,500 per mile of completed main track. The applicant, therefore, is seeking authority at this time to issue its capital stock to the full amount authorized by its charter, and to issue bonds against its existing line of railroad to the limit permitted by the above-mentioned resolution of its directors.

The applicant has heretofore financed the construction and improvement of its railroad with the proceeds of \$393,125 of stock subscribed for at par, of which \$158,075 of stock remains to be issued, with temporary loans and advances obtained from shippers and others along its line; and as far as available, with its income from operations.

The applicant now owes, including principal and interest, \$326,550 to three patrons of its line, for which it seeks to issue bonds at par, and \$78,482.79 to equipment vendors, both of which amounts are secured by liens upon its property. In addition it owes to its president and to certain banks and bankers, upon notes and overdrafts, including principal and interest, \$144,105.71. It also has given notes to certain of its officers and employees for services rendered from December 1, 1918, to December 31, 1920, in the amount of \$31,600, upon which interest of \$1,264 has accrued. It asserts it has made expenditures from income for construction and improvement of its facilities amounting to \$270,809.44, for which reimbursement of its treasury is asked in order that it may continue construction.

By the sale of the stock and the sale or pledge of the bonds to be issued, the applicant proposes and expects to obtain funds to be applied to the foregoing purposes which, recapitulated, are as follows:

To retire prior-lien indebtedness upon road and equipment_____	\$405, 032. 79
To pay notes given and overdrafts to banks incurred for purposes of construction_____	144, 105. 71
To pay notes given in consideration of services rendered_____	32, 864. 00
To finance additions and betterments_____	331, 493. 05
To reimburse its treasury for capital investments from income____	270, 809. 44
Total_____	1, 184, 304. 99

The applicant proposes, if possible, to sell or otherwise dispose of all the bonds at such prices that the average cost to it of the proceeds will not exceed 7.74 per cent, including in such cost interest, discount, attorneys' fees, and all other expenses in connection with the sale thereof. The total net proceeds to be derived from all the securities now to be issued, if sold on the basis proposed by the applicant, will be:

	Proposed basis of issue.	Par value.	Sold and fully paid.	Net pro- ceeds.
Stock.....	Par.....	\$264, 950	\$158, 075	\$106, 875
Bonds.....	Par.....	326, 550	.....	326, 550
Bonds.....	80 per cent of par.....	555, 450	.....	444, 360
Total.....	.....	1, 146, 950	158, 075	877, 785

It is obviously impossible for the applicant, with these proceeds, to meet the obligations, make the improvements, and reimburse its treasury as proposed.

The applicant has submitted sworn statements of the cost of its road and equipment, ascertained in accordance with our accounting requirements. The net investment shown is \$1,306,040.66, against which capital liabilities aggregating \$1,382,000 are proposed to be created, an excess in capital liabilities of about \$76,000.

From a consideration of the facts presented we have reached the conclusion that the proposed issue of securities should be authorized only upon condition that the proceeds thereof be applied to the purposes, and in the order of precedence, as follows: First, to the discharge of applicant's indebtedness constituting a lien upon its property; second, to the making of further additions and betterments as proposed in the application to the extent of not less than \$76,000; third, to the payment of existing obligations created for the purpose of construction; and, fourth, to the making of the other additions and betterments proposed in the application, or to the construction of such extensions of its operating property as may be hereafter authorized.

We find that the proposed issue of stock and the proposed sale or pledge of bonds by the applicant, subject to the aforesaid conditions (a) are for lawful objects within its corporate purposes and com-



patible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Cisco & Northeastern Railway Company be, and it is hereby, authorized (1) to issue for sale at par \$264,950, par value, of its common capital stock; and (2) to issue \$882,000, principal amount, of first-mortgage 6 per cent gold bonds, \$326,550 thereof to be used at par in payment of certain outstanding promissory notes of the applicant and accrued interest thereon; and the remaining \$555,450 of bonds to be sold on a basis to net the applicant not less than 80 per cent of par, and/or to be pledged and repledged as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained; such pledge or pledges to be in the ratio of not exceeding \$125 in value of bonds, at their prevailing market price at the time of pledge, for each \$100, face amount, of notes; said bonds to be issued under, and in pursuance of, and to be secured by, a mortgage or deed of trust to be given by the applicant to the Meridian Trust Company of Houston, Tex., trustee, to bear interest at the rate of 6 per cent per annum, payable semiannually, and to mature not less than 10 years from the date thereof; the mortgage and the bonds secured thereunder to be in accord with the provisions of section 20a of the interstate commerce act and substantially in the form submitted with the application: *Provided, however*, That all of said bonds shall be sold or used (except when pledged) on such basis that the total average cost to the applicant of the entire proceeds will not exceed 7.75 per cent per annum, including in such cost interest, discount, attorneys' fees, and all other expenses in connection with such sale or use.

*It is further ordered*, That the proceeds of the sale of said stock and the proceeds of the sale of said bonds, or of any note or notes for which they may be pledged as collateral security, shall be used by the ap-

plicant, first, to pay obligations which now constitute liens upon the property or equipment of the applicant; second, to make additions and betterments as proposed in the application to the extent of not less than \$76,000; third, to pay notes and other indebtedness, given or incurred for the purpose of construction or improvement of its properties; and fourth, to make the other additions and betterments proposed in the application, or, to construct such extensions of its operating property as hereafter may be authorized.

*It is further ordered*, That, within 10 days after the execution and delivery of said mortgage or deed of trust, the applicant shall file with this commission a verified copy thereof in the form in which it shall have been executed.

*It is further ordered*, That said stocks and said bonds shall not be sold, repledged, or otherwise disposed of by the applicant, nor the proceeds thereof used, except as herein authorized.

*It is further ordered*, That, within 10 days thereafter, respectively, the applicant shall report to this commission all pertinent facts relating to the issue of said stocks and said bonds; the pledge and release from pledge of said bonds; and the use of the proceeds thereof for the discharge of liens and other indebtedness authorized to be discharged hereby, and for the making of additions, betterments, and extensions; such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stocks or dividends thereon, or as to said bonds or interest thereon, on the part of the United States.

### SUPPLEMENTAL ORDER.

(August 13, 1921.)

Upon further consideration of the record in this proceeding and for good cause shown:

*It is ordered*, That the first ordering paragraph of the order in this proceeding dated July 27, 1921, be, and it is hereby, modified by striking out the words "Meridian Trust Company of Houston, Tex., trustee," and inserting in lieu thereof the words "Guardian Trust Company of Houston, Tex., trustee."

*It is further ordered*, That except as herein modified said order of July 27, 1921, shall remain in full force and effect.

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FINANCE DOCKET No. 12.

IN THE MATTER OF THE APPLICATION OF THE IDAHO  
CENTRAL RAILROAD COMPANY FOR A CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted July 2, 1921. Decided July 28, 1921.*

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Certificate issued authorizing construction of a line of railroad in Twin Falls  
County, Idaho, and Elko County, Nev.

*Arthur Dunn and George L. Davis* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Idaho Central Railroad Company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, on July 1, 1920, filed an application for a certificate that the present or future public convenience and necessity require the construction of a line of railroad from Rogerson, Twin Falls County, Idaho, to Wells, Elko County, Nev., a distance of 90 miles. A joint hearing was held for us by the Public Utilities Commission of Idaho and the Public Service Commission of Nevada. Decision was withheld pending the filing of additional information, which the applicant furnished on July 2, 1921.

The applicant is a corporation organized in June, 1920, for the purpose of building and operating the proposed line. The total authorized capital is \$5,000,000, divided into common and noncumulative preferred stock in equal amounts. Common stock to the par value of \$100,400 has been subscribed, but none has been paid for. There is to be no promotion stock, but certain of the promoters are to receive, as a bonus for underwriting the securities, the sum of \$500,000 which has been subscribed by citizens of the territory to be served, payable when the completed line shall be ready for operation. The Legislature of Nevada in February, 1921, passed an act appropriating \$50,000 in aid of the proposed construction, payable as and when the line is placed in service, the amount to be raised by a general tax levy in Elko county.

The town of Rogerson, the northern terminus of the proposed railroad, is the southern terminus of a branch of the Oregon Short Line extending from Minidoka, Idaho. Wells, the southern terminus of the proposed line, is a point in Nevada common to the main lines of

the Southern Pacific Railroad and the Western Pacific Railroad, and is the nearest point at which these lines can be reached from Rogerson. The exact location of the proposed line is undetermined, no preliminary survey having been completed. Some reconnoissance work has been done, but applicant apparently has not sufficient data at hand to enable it to furnish definite information as to grades or alignment, except in a very general way. The applicant presents an estimate of net operating income, which will be further referred to hereinafter.

The evidence indicates that the line in question would accomplish four principal objects. In the first place, it would furnish a more direct route to California, especially to the markets of San Francisco and Los Angeles, for the products of the irrigated region of Twin Falls County. Such products now move to eastern markets over the Twin Falls branch of the Oregon Short Line. It is stated that the new line would shorten by 311 miles the distance between Twin Falls and San Francisco, referring to the older route of the Southern Pacific, which passes north of Great Salt Lake. A like comparison with the through route via Ogden and across the lake shows a saving of 350 miles of travel. Access to San Francisco is greatly desired by shippers and travelers in southern Idaho. No estimate is given as to the probable volume of passenger traffic. With respect to the shipment of live stock and agricultural products, a comparison is made of the distances from Twin Falls to eastern markets with the shorter route to San Francisco, the inference being that the latter point would receive most shipments which now move to the East.

There is in Twin Falls County a large body of irrigated land, lying to the north of Rogerson, the chief business center being Twin Falls. The county and city have populations of 28,398 and 8,324, respectively, according to the census of 1920. Twin Falls County contains a compact area of 585,000 acres under irrigation, comprising six separate projects. Irrigation was first undertaken about 1904, and the Oregon Short Line was extended to Twin Falls and Buhl about a year later. To the south of Rogerson, however, agriculture is carried on only along narrow strips of land bordering the Salmon River. It appears that the irrigated lands are nearly all under cultivation at present, but whether they are capable of increased production is a matter of speculation. There is, in addition, a tract known as the Bruneau project, with an arable area of about 600,000 acres, which, it is expected, will be irrigated as soon as the American Falls dam is completed. The records of the United States Reclamation Service show that the dam in question is located about 150 miles from Bruneau, a small settlement within the area of the

project; that the dam will cost about \$30,000,000 and will probably irrigate about 400,000 acres, although the tracts to be supplied have not been selected; and that some money has already been spent on the dam. American Falls, on the Snake River, is on the main line of the Oregon Short Line, 92 miles by rail east of Twin Falls and 26 miles west of Pocatello.

Applicant submits no very definite information as to the volume of traffic which may be handled by the new line from the irrigated regions in question, nor as to what part of the traffic it expects to handle will be diverted from the Oregon Short Line. The proof is for the most part limited to the total crops and live stock produced in and shipped from this territory in years past. On the Twin Falls South Side tract, containing 202,000 acres, there was produced in 1919 approximately 185,000 tons of farm products and about 100,000 head of live stock of all kinds. Total shipments of live stock from Twin Falls in 1919 were 1,307 cars, a part of which were shipped for winter feeding. The record shows, further, that the tonnage handled in 1919 by the Minidoka branch of the Oregon Short Line aggregated 320,000 tons outbound and 420,000 inbound. Proof was offered dealing with the inability of the Oregon Short Line to supply sufficient cars for the traffic of this branch, dealing chiefly with the period following January 1, 1919. The inference is, however, that these deficiencies in the service must be attributed, in the main, to the general conditions respecting car supply during that period. Taken as a whole, the evidence hardly establishes that the Oregon Short Line is unable to handle the traffic which now moves from Twin Falls and vicinity..

A more important consideration is found in the apparent advantages offered by a line such as is here proposed to connect southern Idaho and northern Nevada for the handling of cattle and of feed for live stock. In the territory surrounding Wells a large number of cattle are grazed during the summer, and in the fall it is desirable that this stock be moved to southern Idaho and fed there, or feed must be shipped in from the territory where it is produced. It is not practicable to drive stock overland the required distances. The region around Twin Falls produces a large amount of alfalfa, which can be fed to the stock shipped in, or moved into Nevada over the new line. Either method is feasible. Wells is an important shipping point for that part of Elko County extending for 20 miles east and west and 100 miles north and south not only for beef cattle and sheep but for shipments of stock for winter feeding, cattle now being transported to points 200 to 300 miles away, and even as far as Las Vegas, N. Mex., 500 miles from Wells. The applicant estimates that about 1,500,000 sheep and cattle graze in the valley of the Salmon River

south of Rogerson, but the United States census statistics for 1920 show only about 298,000 cattle and sheep in Elko County. However, it is evident that there will be a substantial volume of new traffic from this source. The population of that portion of the county tributary to the proposed line, according to the census of 1920, is not more than 2,000.

The remaining inducement for the building of the line is the fact that about halfway between Rogerson and Wells, in Elko County, is located the so-called Contact mining district. Development of copper mining in that district was first undertaken about the year 1870, but little was accomplished there until a comparatively recent date. Beginning in 1915, there has been an increase of activity at these mines, and some of them, it is claimed, have now passed the experimental stage of their development, so that only rail transportation is needed to insure success. The ore is chiefly of a low grade, which can not be handled by truck over long distances, particularly in view of the bad condition of the highways during the winter and spring. Such movement by truck as has been attempted has cost about \$10 per ton of ore. It is estimated that there are not less than 20,000,000 tons of ore that can be mined in this field, although only a small percentage of that amount is now technically in sight. The testimony as to existing bodies of ore is to some extent conflicting, and is, at best, rather indefinite. The district lies on both sides of the route selected by the applicant and covers about 85 square miles of mineralized lands. Its possibilities have been made the subject of many reports, official and otherwise, which are said to agree on the excellence of surface mineralization, but express some doubt as to its depth and refer to the practical difficulties connected with transportation. It is claimed, however, that work has now progressed far enough to indicate considerable depth in the various deposits. The applicant compares the prospects of success in this district with the early history of prospecting and transportation at Ely, Nev., where there were nearly 5,000,000 tons of ore blocked out when the railroad to that camp was built. The mineralized area at Contact is much greater than at Ely. At Contact the ore blocked out is not estimated. The census of 1920 places the population of Contact precinct at 120.

There is another mining camp at Jarbridge, located about 38 miles west of the proposed line. This is a gold mine, which is in successful operation, so far as the testimony indicates. The ore is now hauled by truck to Rogerson, 66 miles, or to Elko, 79 miles. The amount of available ore is not definitely estimated.

To sum up, the advantages, which it is claimed the proposed line will supply, are (1) an additional outlet for the products of the



region served by the Oregon Short Line; (2) a more direct route to San Francisco for such products and for passenger traffic; (3) a connection between northern Nevada and southern Idaho; and (4) a route for the shipment of mine products in the Contact district.

No definite estimate of the probable tonnage available for the first year is submitted, but a prediction is made that the net operating income will amount to about \$3,440 per mile, or \$310,000. This figure is arrived at by considering the results attained by existing lines serving regions said to be comparable with the one in question. Cost of road and equipment is estimated at \$3,500,000, but inasmuch as no detail is furnished as to the topography of the route, the engineering problems to be solved, or the physical characteristics of the line, it is impossible to check such estimate in order to determine its accuracy. Details of the plan of financing have not been furnished.

The State commissions have submitted their joint recommendation that the application be granted. Their intimate knowledge of the region and its needs entitles such recommendation to great weight. All things considered, we are of the opinion that the proposed line will supply a definite need for transportation facilities. There is some doubt, however, as to the earning power of the proposed road. Such doubt arises chiefly from the absence of definite estimates of probable traffic. In view of this uncertainty, we think the applicant must be limited in its financing to methods other than the issuance of bonds, at least until experience shall have demonstrated the earning power of the line.

Upon the facts presented, we find that the present and future public convenience and necessity require or will require the construction of the proposed line of railroad by the applicant. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction by the Idaho Central Railroad Company of a line of railroad extending from Rogerson, Idaho, to Wells, Nev., a distance of 90 miles.



*It is ordered*, That said Idaho Central Railroad Company be, and it is hereby, authorized to construct said line of railroad: *Provided*, however, that this certificate is issued upon the express condition that said Idaho Central Railroad Company shall not issue any bonds, or other evidence of indebtedness, for the construction of said line of railroad or for the refunding of any obligations arising out of such construction, directly or indirectly, for a period of five years from the date upon which actual construction of said railroad shall commence; and that such line of railroad shall be completed and placed in operation on or before December 31, 1923.

*It is further ordered*, That said Idaho Central Railroad Company, when filing schedules establishing rates and fares to and from points on said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1450.

## IN THE MATTER OF THE APPLICATION OF THE NEW ORLEANS, TEXAS &amp; MEXICO RAILWAY COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted June 1, 1921. Decided July 29, 1921.*

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Authority granted to issue \$533,700 of applicant's first-mortgage bonds, series A, as collateral security for a note for \$500,000 payable to the Columbia Trust Company 24 months after date.

*Frank Andrews* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The New Orleans, Texas & Mexico Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$561,800 of its first-mortgage bonds, series A, for pledge as collateral security for a note which it proposes to issue within the limitations prescribed by paragraph (9) of section 20a of the interstate commerce act without our authorization having first been obtained. No objection has been made to the granting of the application.

The applicant's first mortgage and deed of trust, dated March 1, 1916, to the Columbia Trust Company of New York, trustee, authorizes an issue of not to exceed \$15,000,000 of bonds, to bear interest at not exceeding 6 per cent per annum. The bonds are to be issued in series, and to date the trustee has authenticated and delivered to the applicant \$6,000,000 of 6 per cent bonds, series A, maturing October 1, 1925, of which \$5,870,000 are outstanding in the hands of the public, and \$130,000 remain in applicant's treasury.

Under the terms of the mortgage the applicant is entitled to have bonds certified to it by the trustee upon a showing of expenditures for additions, betterments, extensions, and improvements upon the lines of railway owned by it and upon the lines of its subsidiaries, the St. Louis, Brownsville & Mexico Railway Company and the Beaumont, Sour Lake & Western Railway Company. All of the stock and bonds of the subsidiaries are owned by the applicant and are pledged under its first mortgage and deed of trust. The mortgage further provides that the bonds issuable thereunder may be so

certified and delivered to an amount which, taken at not less than 95 per cent of face value, shall be equal to the cost of such additions, betterments, extensions, and improvements.

During the calendar year 1920 the applicant expended for additions and betterments to roadway and structures upon its lines of railway and the lines of its subsidiaries amounts as follows:

New Orleans, Texas & Mexico Railway Co.....	\$115,439.74
St. Louis, Brownsville & Mexico Railway Co.....	339,926.93
Beaumont, Sour Lake & Western Railway Co.....	78,356.83
Total additions and betterments.....	533,723.50

On the basis authorized by the mortgage the applicant seeks to have certified by the trustee bonds amounting to \$561,800. We are of opinion, however, that the principal amount of the proposed bonds should not exceed the amount actually expended for additions and betterments as described above. The issue of bonds in the sum of \$533,700 will therefore be authorized.

It is the intention of the applicant to borrow \$500,000 from the Columbia Trust Company to replenish its treasury and to issue as evidence of this debt a note for \$500,000, payable 24 months after date, bearing interest at not to exceed 7 per cent per annum, payable semiannually. This note will be issued within the limitations of paragraph (9) of said section 20a without our authorization, and the proposed bonds will be pledged as collateral security therefor. It appearing that two of the directors of the applicant are also directors of the Columbia Trust Company, the question has arisen as to the application to this transaction of section 10 of the Clayton Antitrust Act. That is a question which we do not undertake to decide.

We find that the proposed issue of \$533,700 of bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the New Orleans, Texas & Mexico Railway Company be, and it is hereby, authorized to issue \$533,700, principal amount, of first-mortgage gold bonds, series A, under and pursuant to, and to be secured by the first mortgage and deed of trust dated March 1, 1916, made by the applicant to the Columbia Trust Company of New York; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on the 1st day of June and of December in each year, the principal of said bonds to be payable October 1, 1925; said bonds to be pledged as collateral security for a note of the face amount of \$500,000, payable to the order of the Columbia Trust Company 24 months after date, with interest at a rate not to exceed 7 per cent per annum, payable semiannually: *Provided, however*, That the negotiation of said note and pledging of said bonds shall be subject to the provisions of section 10 of the Clayton Antitrust Act in so far as applicable.

*It is further ordered*, That except as herein authorized to be issued and pledged, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission all pertinent facts relating to the pledge and the release from pledge of any of said bonds, within 10 days thereafter, respectively, such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

FINANCE DOCKET No. 1517.

IN THE MATTER OF THE APPLICATION OF THE  
ILLINOIS CENTRAL RAILROAD COMPANY FOR AU-  
THORITY TO ISSUE AND SELL SECURED GOLD BONDS  
AND TO PLEDGE OTHER BONDS.

*Submitted July 12, 1921. Decided July 29, 1921.*

- 1. Authority granted to issue and sell at not less than 93.75 per cent of par and accrued interest \$8,000,000 of 15-year 6½ per cent secured gold bonds.
  - 2. Authority granted to pledge as collateral security for the proposed bonds \$8,225,000 Illinois Central Railroad Company refunding-mortgage 4 per cent gold bonds and \$3,820,000 Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage 5 per cent bonds, series A.
  - 3. Terms and conditions prescribed.
- W. S. Horton for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4.

The Illinois Central Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate-commerce act to issue and sell \$8,000,000 of 15-year 6½ per cent secured gold bonds and to pledge, as security therefor, \$8,225,000 of its refunding-mortgage 4 per cent gold bonds and \$3,820,000 of Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding-mortgage 5 per cent bonds, series A. No objection has been made to the granting of the application.

The purpose of this issue is to secure funds to meet the following maturing indebtedness:

Six per cent loan from the National City Bank, New York, maturing July 29, 1921.....	\$2, 000, 000
Six per cent loan from the Farmers' Loan and Trust Company, New York, maturing September 2, 1921.....	1, 000, 000
Illinois Central Railroad 5 per cent bonds, maturing August 1, 1921, secured by mortgage on the Kankakee & South Western Railroad..	968, 000
Illinois Central equipment trust:	
Series A, maturing August 1, 1921, \$400,000.....	} 674, 000
Series B, maturing August 1, 1921, \$175,000.....	
Series C, maturing October 1, 1921, \$99,000.....	
	70 I. C. C.

Balance of initial payment on Illinois Central equipment trust, series B-----	\$2, 100, 000
Other obligations covered by vouchers or to be vouchered-----	758, 000
Total-----	7, 500, 000

The applicant desires authority to issue the secured gold bonds under a proposed trust indenture, to be dated July 1, 1921, to the Farmers' Loan & Trust Company, trustee, under which there will be pledged as collateral security \$8,225,000 Illinois Central Railroad Company refunding-mortgage 4 per cent gold bonds and \$3,820,000 Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage 5 per cent bonds, series A.

The refunding-mortgage 4 per cent gold bonds are a part of a total issue of \$20,234,000 which we authorized in *Bonds of the Illinois Central R. R.*, 67 I. C. C., 117. The joint first refunding mortgage bonds consist of \$3,700,000, the issue of which we authorized in *Joint Bonds of Illinois Central R. R.*, 67 I. C. C., 113, and \$120,000, the issue of which is authorized by our order in *Bonds of Illinois Central and C., St. L. & N. O. R. R.*, 70 I. C. C., 277.

Arrangements have been made by the applicant with Kuhn, Loeb & Company for the sale of the proposed secured gold bonds at 93.75 per cent of par and accrued interest, which should net the applicant \$7,500,000. No commission is to be paid by the applicant for the sale, and the cost to it will be approximately 7.2 per cent per annum on the proceeds of the entire issue.

We find that the proposed issue and sale of secured gold bonds and the proposed pledge of refunding-mortgage bonds and joint first refunding mortgage bonds by the applicant (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Illinois Central Railroad Company be, and it is hereby, authorized (1) to issue under date of July 1, 1921,  
70 I. C. C.

\$8,000,000, face amount, of its 15-year 6½ per cent secured gold bonds under and pursuant to, and to be secured by, a proposed trust indenture to be dated July 1, 1921, from the applicant to the Farmers' Loan & Trust Company; said bonds to bear interest at the rate of 6½ per cent per annum, payable semiannually on January 1 and July 1, to mature July 1, 1936, and to be in the forms set forth in the copy of the proposed trust indenture now on file in this proceeding; and (2) to sell said bonds at not less than 93¾ per cent of par and accrued interest, the proceeds of such bonds to be used solely for the purposes set forth in the application: *Provided, however,* That the total cost to the applicant of the issue and sale of the proposed bonds shall not exceed 7½ per cent per annum on the proceeds thereof, including in such cost interest, discounts, attorneys' fees, and all other expenses in connection therewith.

*It is further ordered,* That the Illinois Central Railroad Company be, and it is hereby, authorized to pledge as collateral security for said bonds and in accordance with said trust indenture \$8,225,000 of its refunding-mortgage 4 per cent gold bonds maturing in 1955 and \$3,820,000 Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage 5 per cent bonds, series A, maturing in 1963.

*It is further ordered,* That within 10 days after the execution and delivery of said trust indenture the applicant shall file with this commission a verified copy thereof in the form in which it shall have been executed.

*It is further ordered,* That said 15-year 6½ per cent secured gold bonds, said refunding-mortgage gold bonds, and said joint first refunding mortgage bonds, series A, shall not be sold, pledged, repledged, or otherwise disposed of by the applicant except as herein authorized.

*It is further ordered,* That within 10 days thereafter, respectively, the applicant shall report to this commission all pertinent facts relating to (1) the issue and sale of secured gold bonds as hereinbefore authorized, and (2) the pledge and release from pledge of said refunding-mortgage bonds and said joint first refunding mortgage bonds.

*It is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said secured gold bonds, said refunding-mortgage bonds, or said joint first refunding mortgage bonds, or interest thereon, on the part of the United States.



FINANCE DOCKET No. 1518.

IN THE MATTER OF THE APPLICATION OF THE ILLINOIS CENTRAL RAILROAD COMPANY AND THE CHICAGO, ST. LOUIS & NEW ORLEANS RAILROAD COMPANY FOR AUTHORITY TO ISSUE JOINT REFUNDING MORTGAGE BONDS.

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*Submitted July 12, 1921. Decided July 29, 1921.*

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Authority granted to issue from time to time, until otherwise ordered, by pledging and repledging, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act, \$136,700 of Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage 5 per cent bonds, series A, now held unencumbered in the applicant's treasury.

*W. S. Horton* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Illinois Central Railroad Company and the Chicago, St. Louis & New Orleans Railroad Company, which are carriers within the meaning of that term as used in section 20a of the interstate commerce act, have duly applied for authority under that section (1) to issue \$136,700 of Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage 5 per cent bonds, series A, to reimburse the treasury of the Illinois Central Railroad Company for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans Railroad Company and the Canton, Aberdeen & Nashville Railroad Company by the Illinois Central Railroad Company, and (2) to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued by the Illinois Central Railroad Company within the limitations prescribed by paragraph (9) of section 20a of that act without our authorization therefor having first been obtained. No objection has been made to the granting of the application.

The Illinois Central Railroad Company and the Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage,  
70 I. C. C.

dated December 1, 1913, given by applicants to the Farmers' Loan & Trust Company, trustee, authorizes a total issue of \$120,000,000. By section 5 of article 2 of the mortgage, \$36,519,900 of these bonds were reserved for the purpose of reimbursing the treasury of the Illinois Central Railroad Company for additions and betterments to be made to the property of the Chicago, St. Louis & New Orleans Railroad Company, or the Canton, Aberdeen & Nashville Railroad Company, the stock of which is practically all owned by the Chicago, St. Louis & New Orleans Railroad Company, or for the construction or acquisition of additional lines of railroad connecting with the lines of those companies. At the date of this application the Illinois Central Railroad Company had expended for additions and betterments on the Canton, Aberdeen & Nashville Railroad and the Chicago, St. Louis & New Orleans Railroad the sum of \$14,138,600, for which amount bonds had been authenticated and delivered to the Illinois Central Railroad Company by the trustee, as prescribed by section 5 of article 2 of the mortgage. The \$136,700 of bonds, to which the application relates, are a part of this \$14,138,600 and are now in the treasury of the Illinois Central Railroad Company. They bear interest at the rate of 5 per cent per annum, payable semiannually on June 1 and December 1, and will mature December 1, 1963.

The Illinois Central Railroad Company desires to utilize the said \$136,700 of bonds as security for short-term loans under paragraph (9). It also proposes immediately to pledge \$120,000 thereof as part security for an issue of secured gold bonds, authority for the issue of which is requested in *Bonds of Illinois Central R. R.*, 70 I. C. C., 274; and such pledge thereof is authorized by our order in that proceeding.

We find that the proposed pledge and repledge by the Illinois Central Railroad Company of all or any part of said bonds (a) are for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

70 I. C. C.

*It is ordered,* That, until otherwise ordered, the Illinois Central Railroad Company be, and it is hereby, authorized to issue from time to time, by pledging and repledging as collateral security for any note or notes which may be issued within the limitations of paragraph (9) of section 20a of the interstate commerce act without our authorization therefor having first been obtained, all or any part of \$136,700 of Illinois Central Railroad Company and Chicago, St. Louis & New Orleans Railroad Company joint first refunding mortgage 5 per cent bonds, series A, now held unencumbered in the treasury of the Illinois Central Railroad Company; such pledge or pledges to be in the ratio of not exceeding \$133.33 $\frac{1}{3}$  in value of bonds at the prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is further ordered,* That said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the Illinois Central Railroad Company, except as herein authorized.

*It is further ordered,* That the Illinois Central Railroad Company, within 10 days after the pledge or repledge of any of said bonds as herein authorized, shall file with this commission a certificate of notification to that effect, and, within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1512.

## IN THE MATTER OF THE APPLICATION OF THE LANCASTER &amp; CHESTER RAILWAY COMPANY FOR AUTHORITY TO EXTEND THE MATURITY OF BONDS.

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*Submitted July 16, 1921. Decided August 1, 1921.*

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Authority granted to enter into an agreement with the holder of \$135,000 first-mortgage 5 per cent gold bonds for the extension of the maturity date thereof from July 1, 1921, to July 1, 1922, and to increase the rate of interest thereon from 5 per cent to 7 per cent per annum.

*T. Y. Williams* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Lancaster & Chester Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied under section 20a of the interstate commerce act for authority to enter into an extension agreement with the holder of \$135,000 first-mortgage 5 per cent gold bonds to extend the maturity date of said bonds for one year from July 1, 1921, the extension agreement to be inscribed on each bond, and to increase the rate of interest thereon from 5 per cent to 7 per cent per annum. No objection has been made to the granting of the application.

The applicant states that the entire issue of bonds is owned by the Southern Railway Company and that it is without funds with which to meet the payment thereof at maturity, and that the Southern Railway Company has agreed to extend for a period of one year at 7 per cent in contemplation of a lower rate of interest after the maturity on July 1, 1922, should a further extension be made.

The agreement to be inscribed on each bond will be in substantially the same form as set forth by the applicant in its application.

The bonds were originally issued under the applicant's first mortgage dated July 1, 1901, to the Standard Trust Company of New York, trustee.

We find that the extension of the maturity date of the bonds and the increased rate of interest, as proposed by the applicant (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and

consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Lancaster & Chester Railway Company be, and it is hereby, authorized (1) to enter into an extension agreement with the holder of \$135,000, principal amount, of first-mortgage 5 per cent mortgage bonds, for the purpose of extending the maturity date thereof from July 1, 1921, to July 1, 1922, and (2) to increase the rate of interest thereon from 5 to 7 per cent per annum, payable semiannually on January 1 and July 1, 1922, as provided in the extension agreement, which agreement shall be in substantially the form submitted with the application.

*It is further ordered*, That within 10 days after the bonds have been inscribed with said agreement, the applicant shall report to this commission all pertinent facts relating thereto, such report to be verified and filed by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. Q.

## FINANCE DOCKET No. 1528.

## IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL RAILROAD COMPANY FOR AUTHORITY TO ISSUE CONSOLIDATION-MORTGAGE BONDS IN EXCHANGE FOR NEW YORK CENTRAL &amp; HUDSON RIVER RAILROAD COMPANY'S BONDS.

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*Submitted July 18, 1921. Decided August 2, 1921.*

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Authority granted to issue not to exceed \$4,425,000 of 4 per cent consolidation-mortgage bonds, series A, in exchange, par for par, for a like amount of New York Central & Hudson River Railroad Company's 3½ per cent Lake Shore collateral bonds.

*John K. Graves* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

## BY DIVISION 4:

The New York Central Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act, to issue, from time to time, not to exceed \$4,425,000 of its 4 per cent consolidation-mortgage bonds, series A, in exchange for a like amount of the New York Central & Hudson River Railroad Company's 3½ per cent gold bonds, Lake Shore collateral, hereinafter termed the Lake Shore collateral bonds. No objection has been made to the granting of the application.

The mortgage dated February 4, 1898, to the Guaranty Trust Company of New York, under which the Lake Shore collateral bonds were issued, provides that if the mortgagor, the New York Central & Hudson River Railroad Company, hereinafter termed the Hudson River Company, should thereafter make a new mortgage on its railroad, it would secure thereby all Lake Shore collateral bonds with a lien having priority over any other bonds secured by such future mortgage (except that not exceeding \$22,000,000 of other bonds might be provided for and secured by such future mortgage equally with the Lake Shore collateral bonds).

Indentures dated April 13, 1898, and January 1, 1912 (and a supplemental indenture dated February 5, 1912), to the Guaranty Trust Company of New York, under which the Hudson River Company's Michigan Central collateral bonds and its debentures of 1912 were

respectively issued, and an indenture dated May 12, 1904, to the United States Trust Company of New York, under which were issued its debentures of 1904, contained provisions that if the Hudson River Company should make a new mortgage upon its railroad or a substantial part thereof, it should secure under such a mortgage the aforesaid collateral and debenture bonds in accordance with the terms of the respective indentures under which they were issued.

Subsequently the Hudson River Company executed a consolidation mortgage (dated June 20, 1913) to the Bankers Trust Company, and, pursuant to covenants contained in previous mortgages, secured thereunder \$90,578,400 of Lake Shore collateral bonds, \$19,336,000 of Michigan Central collateral bonds, \$48,000,000 of its debentures of 1904, and \$9,188,000 of its debentures of 1912, these being the entire amounts of the respective classes of bonds at that time outstanding. The Lake Shore collateral bonds and the Michigan Central collateral bonds were given superior and prior liens over all other bonds and debentures secured thereby, a secondary lien being given to secure the two debenture issues. The mortgage reserved not exceeding \$90,578,400 of consolidation-mortgage bonds, series A, to retire and refund, par for par, the Lake Shore collateral bonds, and not to exceed \$76,524,000 of bonds of series B, C, and D, to retire and refund, par for par, the Michigan Central collateral bonds and the debentures of 1904 and 1912, respectively, the bonds thus reserved being accorded a lien on a parity with the debentures. Of the consolidation-mortgage bonds, series A, \$65,575,000 have been issued. No bonds of series B, C, or D have been issued.

The mortgage of February 4, 1898, under which the Lake Shore collateral bonds were issued, further provides that the pledge thereunder of the capital stock of the Lake Shore & Michigan Southern Railway Company should not prevent the consolidation of that company with the Hudson River Company upon such terms as should be approved by the holders of 75 per cent, in amount, of the Lake Shore collateral bonds, and furthermore that upon such consolidation no lien or charge should be created except subordinate to the prior lien and charge of such bonds; and that should the consolidation with the Lake Shore Company be effected, the mortgage should immediately become and be a lien upon the property of the Lake Shore & Michigan Southern Railway Company so consolidated with the Hudson River Company.

Pursuant to the terms of a consolidation agreement dated April 29, 1914, the consolidation was consummated by the forming of the New York Central Railroad Company, a new corporation, to take over the properties of the constituent companies, which included the Hudson River Company, the Lake Shore & Michigan Southern Rail-



way Company, and other companies. In accordance with such consolidation agreement, the applicant (the new corporation) executed a mortgage dated January 15, 1915, to the Bankers Trust Company and William H. Elmendorf, as trustees, conveying to them in trust the railroads and properties formerly belonging to the Lake Shore & Michigan Southern Railway Company. It secured thereunder by a superior lien the Lake Shore collateral bonds and by a secondary lien the consolidation-mortgage bonds, series A, in the aggregate amount of \$90,578,400, issued or to be issued under the consolidation mortgage made by the Hudson River Company. The mortgage of January 15, 1915, provides that bonds issued under the consolidation mortgage shall be executed in the name of the New York Central Railroad, which has assumed the consolidation mortgage, and for the payment of the principal and interest of every bond secured thereunder and similarly of certain bonds secured by mortgages on properties formerly belonging to the Lake Shore & Michigan Southern Railway Company, having liens thereon prior to the lien of said mortgage. No provision is made for the issue of any bonds thereunder, all bonds to be issued pursuant to the consolidation mortgage.

The consolidation agreement provides, among other things, that holders of the Lake Shore collateral bonds, not exceeding \$70,000,000, for which consents to the consolidation shall have been given, and accepted by the Hudson River Company, shall have the right any time subsequent to the consolidation to exchange for cancellation such  $3\frac{1}{2}$  per cent Lake Shore collateral bonds for a like principal amount of 4 per cent consolidation-mortgage bonds, series A. Authority is now sought to exchange consolidation-mortgage bonds when and as the Lake Shore collateral bonds are presented for that purpose.

In *Proposed Bond Issue by N. Y. C. & H. R. R. Co.*, 30 I. C. C., 147, we expressed the opinion that from the standpoint of economy in operation and facility in the future financing of the two companies the consolidation was warranted, and (while under the law existing at that time we had no jurisdiction or control over such matters) that as a practical matter the exchange of the  $3\frac{1}{2}$  per cent Lake Shore collateral bonds for 4 per cent consolidation-mortgage bonds was, under the circumstances disclosed, a necessary step in the carrying out of the proposed consolidation plan as outlined to us by the Hudson River Company.

We therefore find that the proposed issue of 4 per cent consolidation-mortgage bonds, series A, by the applicant, as aforesaid, (a) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform

that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding have been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the New York Central Railroad Company be, and it is hereby, authorized to issue, from time to time, not to exceed \$4,425,000, aggregate principal amount, of consolidation-mortgage bonds, series A, under and pursuant to the consolidation mortgage dated June 30, 1913, made by the New York Central & Hudson River Railroad Company to the Bankers Trust Company, trustee, and to be secured by said mortgage and by the mortgage dated January 15, 1915, made by said New York Central Railroad Company to the Bankers Trust Company and William H. Elmendorf, trustees; said bonds to be dated August 1, 1913, to mature February 1, 1998, and to bear interest at the rate of 4 per cent per annum, payable semi-annually on February 1 and August 1 in each year; said bonds to be used solely in exchange, par for par, for a like principal amount of the New York Central & Hudson River Railroad Company's 3½ per cent Lake Shore collateral bonds, as and when said Lake Shore collateral bonds are received in exchange for consolidation-mortgage bonds herein authorized to be issued, said Lake Shore collateral bonds to be canceled.

*It is further ordered*, That except as herein authorized the applicant shall not issue, sell, pledge, or repledge, or dispose of said bonds in any manner whatever, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, for the period ending December 31, 1921, and for each period of six months thereafter, until all of said consolidation-mortgage bonds have been so issued and all of said Lake Shore collateral bonds have been canceled, within 30 days after the close of such period, report to this commission all pertinent facts relating (1) to the issue of consolidation-mortgage bonds as herein authorized, and (2) to the cancellation of Lake Shore collateral bonds; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said consolidation-mortgage bonds or said Lake Shore collateral bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1434.

IN THE MATTER OF THE APPLICATION OF THE  
CHARLES CITY WESTERN RAILWAY COMPANY  
FOR AUTHORITY TO ISSUE, PLEDGE, AND SELL  
NOTES.

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*Submitted July 18, 1921. Decided August 3, 1921.*

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Authority granted to issue \$10,400 or 10-year 6 per cent first-mortgage gold notes to be dated July 1, 1921; said notes to be sold at not less than par. Previous report 70 I. C. C., 85.

*Ernest Housberg* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

In our report in this proceeding dated July 8, 1921, page 85 of this report, it was stated that the present capitalization of the applicant is limited under the Iowa Code, section 1611, to a minimum indebtedness of \$16,000 per mile, or a total indebtedness of \$373,600, and an order authorizing the issue of that amount was entered accordingly. This is \$10,400 less than the amount for which authority was requested.

The applicant, the Charles City Western Railway Company, has now duly filed a supplemental application requesting that reconsideration be given to our report dated July 8, 1921, and that authority be granted to issue the additional \$10,400 of notes.

Upon further consideration of section 1611 and also of section 2049 of the Iowa Code, and the construction of said statutes by the supreme court of the State of Iowa in *Barnes v. Eastern Iowa Ry. Co.*, 155 Iowa, 721, we are of the opinion that the full amount of \$384,000 of first-mortgage gold notes may lawfully be issued by the applicant.

We find that the proposed issue and sale by the applicant of \$10,400 of notes in addition to those authorized in our order of July 8, 1921, (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

## SUPPLEMENTAL ORDER.

Further investigation of the matters and things involved in this proceeding having been had, and said division, having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Charles City Western Railway Company, be, and it is hereby, authorized to issue \$10,400, face amount, of its first-mortgage gold notes, under and pursuant to, and to be secured by, a proposed first mortgage to the Security Trust & Savings Bank, trustee, to be dated July 1, 1921; said notes to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1 in each year, and to mature July 1, 1931; said notes to be sold at not less than par, the proceeds of such sale to be used solely for the purposes set forth in our report herein dated July 8, 1921.

*It is further ordered*, That, except as herein authorized, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant unless and until so ordered by this commission.

*It is further ordered*, That the Charles City Western Railway Company shall report to this commission within 10 days thereafter, respectively, (1) the issue of the first-mortgage notes herein authorized and (2) the disposition of the proceeds from the sale of said notes; each report to be in writing, signed and verified by an executive officer of the applicant having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to any of the said notes, or interest thereon, on the part of the United States.

70 I. C. O.

## FINANCE DOCKET No. 1507.

## IN THE MATTER OF THE APPLICATION OF THE LEAVENWORTH &amp; TOPEKA RAILROAD COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted July 26, 1921. Decided August 3, 1921.*

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Authority granted to issue at par \$80,000 of first-mortgage 7 per cent bonds; \$57,000 of the bonds to be delivered to certain persons in part payment for equitable or contingent interests held by them in and to the line of railroad operated by applicant; \$3,000 to be sold for the purpose of reimbursing the treasury for a like amount in cash heretofore expended in part payment for such equitable or contingent interest; and \$20,000 to be deposited with the Central Trust Company of Topeka, Kans., for the purpose of creating a sinking fund as required by the laws of Kansas.

*E. H. Hogueland* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Leavenworth & Topeka Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue at par \$80,000 of its first-mortgage 7 per cent bonds for the purposes of (1) acquiring certain equitable or contingent interests in and to the line of railroad which it now operates, (2) reimbursing its treasury for money heretofore deposited with the holders of such interests and by them to be applied in part payment therefor, and (3) creating a sinking fund in connection with the issue of the bonds as required by the laws of Kansas. No objection to the granting of the application has been made. A certificate was issued on June 17, 1921, by the Public Utilities Commission for the State of Kansas, approving the proposed issue.

The applicant operates a line of railroad between Leavenworth and Meriden Junction, Kans., a distance of 45.6 miles, together with certain terminal facilities in the city of Leavenworth. This property was formerly owned by the Leavenworth & Topeka Railway Company, the entire capital stock of which was held by the Atchison, Topeka & Santa Fe Railway Company and the Union Pacific Railroad Company. On March 21, 1916, the Union Pacific filed suit in the District Court of the United States for the District

of Kansas, First Division, against the Leavenworth & Topeka Railway Company asking that a receiver be appointed for the latter and that its property be sold. In this action, Docket No. 146-N, John C. Duner has been substituted as plaintiff. On April 3, 1918, the road, equipment, and franchises of the Leavenworth & Topeka Railway Company were offered for sale as a going concern for the upset price of \$80,000 and were purchased by Walter A. Johnson acting as representative for certain local interests in Leavenworth and Jefferson Counties, Kans. Conveyance of the property to him was confirmed by the court on May 18, 1918, upon condition that, if the purchaser or his successors or assigns shall fail, for a continuous period of 50 days, to maintain and operate the railroad as a going concern, and furnish to the patrons thereof suitable and effective service, the plaintiff in the action, his successors or assigns, shall have the right to petition the court to retake possession of the property and sell it to the highest bidder therefor.

Prior to the confirmation of the sale, the purchaser with others had organized the applicant to take over and operate the property thus acquired. The applicant as successor in interest to the purchaser represents that, because of the uncertain interests in the property now outstanding under the order of the court, it is impossible for it to purchase materials and supplies on a satisfactory basis and very difficult to borrow on its own credit. To acquire full and complete title to the property the applicant has entered into an agreement with the Leavenworth & Topeka Railway Company and F. L. Wells, acting for himself and others, as assigns of the plaintiff in the action mentioned. Under the terms of this agreement, a copy of which is on file in this proceeding, F. L. Wells is to assign and deliver to applicant all the capital stock of the Leavenworth & Topeka Railway Company, and procure from the District Court for the District of Kansas an amended order conveying to the applicant the unconditional title to the property involved in the suit; and the applicant is to pay F. L. Wells \$3,000 upon the execution and delivery of the contract, and deliver to him in payment of the remainder of the purchase price \$57,000 par value of its first-mortgage 7 per cent bonds.

To carry out the terms of the agreement and to reimburse its treasury for the \$3,000 heretofore deposited with the vendors, the applicant proposes to issue \$60,000 of its first-mortgage 7 per cent bonds. As a condition precedent to issuing these bonds applicant must, under the laws of Kansas, create a sinking fund of at least 25 per cent of the proposed indebtedness, to be deposited with a reputable trust company of the State of Kansas or of the United States, or lose the



benefit of certain legislation. It proposes to create this sinking fund by depositing \$20,000 of bonds of the same issue with the Central Trust Company of Topeka, Kans.

The bonds will be issued under a mortgage and deed of trust to be given to the First Trust & Savings Bank and M. A. Traylor, both of Chicago, Ill., and will be dated August 1, 1921. A copy of the mortgage and deed of trust, as proposed to be executed, is on file in this proceeding. It will authorize a total issue of \$80,000 of bonds, to bear interest at the rate of 7 per cent per annum payable semiannually on February 1 and August 1 in each year, and to be substantially in the form incorporated in the proposed mortgage.

It appears that the applicant has operated its property at a loss since it acquired possession in 1918, but it expects, through increased traffic due to suspension of operations of another line of railroad serving certain towns also served by the applicant, through additions and betterments to its property, and through aid from benefit districts, to be able to pay all its operating expenses and to meet the increased charges to income which will result from the issue contemplated.

We find that the proposed issue of bonds (*a*) is for lawful objects within the corporate purposes of the applicant, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Leavenworth & Topeka Railroad Company be, and it is hereby, authorized to issue at par \$80,000 of its first-mortgage 7 per cent bonds, under and pursuant to, and to be secured by, a proposed first mortgage, to be dated August 1, 1921, to be made by the applicant to the First Trust & Savings Bank and M. A. Traylor, both of Chicago, Ill., trustees, and to be in the form submitted in this proceeding; (*a*) \$57,000 of said bonds to be delivered to F. L. Wells for the purpose and in accordance with the terms set forth in the agreement mentioned and described in the report;



(b) \$3,000 of said bonds to be sold for the purpose of reimbursing applicant's treasury for a like amount of cash heretofore paid the said F. L. Wells in accordance with the terms of said agreement; and  
(c) \$20,000 of said bonds to be deposited with the Central Trust Company of Topeka, Kans., for the purpose of creating a sinking fund as required by the laws of Kansas.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That within 10 days after the execution of said mortgage the applicant shall file with this commission a verified copy thereof, as executed.

*It is further ordered*, That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the issue and disposition of said bonds, or of any of them, as herein authorized; each report to be signed and verified by an executive officer of the applicant having knowledge of the facts therein contained.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

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FINANCE DOCKET No. 1485.

IN THE MATTER OF THE APPLICATION OF THE FLINT  
BELT RAILROAD COMPANY FOR A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY.

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FINANCE DOCKET No. 1497.

IN THE MATTER OF THE APPLICATION OF THE FLINT  
BELT RAILROAD COMPANY FOR PERMISSION TO RE-  
TAIN EXCESS EARNINGS.

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*Submitted July 28, 1921. Decided August 4, 1921.*

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1. Certificate issued authorizing the construction and operation of a line of railroad in Genesee County, Mich.
2. Permission granted to retain the excess earnings of such new line for a period of not more than 10 years.

*John C. Bills* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

By DIVISION 4:

The Flint Belt Railroad Company, a corporation duly organized under the laws of the State of Michigan for the purpose of engaging in interstate commerce by railroad, filed, on June 16, 1921, its application under paragraph (18) of section 1 of the interstate commerce act for a certificate that the present and future public convenience and necessity require the construction of a line of railroad in Genesee County, Mich., and, on June 23, 1921, an application, under paragraph (18) of section 15a of said act, for permission to retain the excess earnings of the new line for a period of not more than 10 years.

The Public Utilities Commission of the State of Michigan filed with us its recommendation that the applications be granted, and the case was submitted without formal hearing.

The new line would begin at a point on the Pere Marquette Railway, hereinafter referred to as the Marquette, 0.25 mile south of the township line between Grand Blanc and Burton townships, Genesee County, Mich., and approximately 0.25 mile east of the section line

between sections 32 and 33, in Burton township; thence extending in a northerly direction, through Burton township into Genesee township, 5.25 miles; thence, in a northwesterly direction, to a connection with the Marquette. The total length of the proposed line would be 8.25 miles, all in Genesee County, establishing a belt line around the congested district of the city of Flint.

The road is designed particularly to serve the present and future manufacturing industries of Flint and to afford a route over which may be detoured the through-freight traffic of the Marquette, the main line of which bisects the congested part of the city. Continual movement of heavy railroad traffic through the crowded parts of the city involves not only inconvenience and delay to the Marquette but annoyance and danger to citizens.

The projected line would be financed by the applicant through the sale of its capital stock at par. It is expected that this stock will be purchased by the Marquette, an application covering the proposed issue of the stock (Finance Docket No. 1498) and an application by the Marquette to purchase such stock (Finance Docket No. 1516) now pending before us.

The applicant points out the necessity of affording to Flint relief from the congestion of railroad traffic in the crowded part of the city and the urgent need of additional railroad facilities in the expansion of present and promotion of prospective manufacturing industries.

The city of Flint has increased in population in the last two decades nearly 700 per cent and has enjoyed an industrial development corresponding to its growth in population. At this time the principal industry of Flint is the manufacture of automobiles and automobile parts and accessories. It represents an enormous investment and is believed to be permanent in character and promising in future development. Citizens of Flint have arranged for the donation to the applicant of practically the entire right of way, representing a cash value of approximately \$225,000. The city is served by the Marquette, the Grand Trunk Western Railway Company, and two electrically operated railroads.

An estimate of the cost of construction of applicant's line aggregates \$682,411, exclusive of the donated right of way. The estimate may be considered reasonable. The equipment to be provided would include four switch engines and a few cabooses and work cars, all to be leased from or otherwise provided by the Marquette.

Gross operating income, it is estimated by the applicant, would amount to \$135,000 annually, of which \$112,000 would be derived from the switching of cars to and from connecting railroads and \$23,000 from trackage rights granted to the Marquette for the opera-

tion of through trains over the line. The net operating income, as estimated by the applicant, would amount to about \$50,000 annually.

It is proposed by the applicant to complete and place in full operation the 8.25 miles of line on or before July 1, 1924. During the present year and the year 1922 it expects to complete and put into operation the line from the southern terminus thereof as far north as the Davison Road, a distance of about 5.25 miles. The operation of this portion of the line would enable the applicant to serve manufacturing establishments located along the line south to Davison Road. It is the intention of the applicant, expressed in its request for permission to retain excess earnings, if any should accrue, to use such earnings in the further development of the property.

We find that the present and future public convenience and necessity require, and will require, the construction and operation of the proposed line. We find further that, because of the probable cost of construction, the applicant should be permitted to retain, for a period of not more than 10 years from the date said line is completed and placed in operation, all of its earnings derived from the proposed new construction in excess of the amount otherwise provided in section 15a of the interstate commerce act for such disposition as it lawfully may make of the same.

A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

These applications having been duly submitted, and full investigation of the matters and things involved having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction and operation by the Flint Belt Railroad Company of a line of railroad in Genesee County, Mich., as described in said report.

*It is ordered,* That said Flint Belt Railroad Company be, and it is hereby, authorized to construct and operate said line of railroad.

*It is further ordered,* That said Flint Belt Railroad Company be, and it is hereby, permitted to retain for a period of not more than 10 years from the date on which the said line shall be placed in operation, but not extending beyond July 1, 1934, all of the earnings derived from such line: *Provided, however,* That this permission is expressly conditioned upon the keeping of applicant's accounts in

such manner that the earnings derived from such line can be segregated from those of any other line or lines that may acquire interest in, or control of, the proposed road, and that said line be completed on or before July 1, 1924.

*And it is further ordered,* That said Flint Belt Railroad Company, when filing schedules establishing tariffs applicable to the operations of said railroad, shall refer in such schedules to this certificate by title, date, and docket numbers.

70 I. C. C.

FINANCE DOCKET No. 1498.

IN THE MATTER OF THE APPLICATION OF THE FLINT  
BELT RAILROAD COMPANY FOR AUTHORITY TO IS-  
SUE CAPITAL STOCK.

*Submitted July 18, 1921. Decided August 4, 1921.*

Authority granted to sell for cash at par \$1,000,000 of capital stock, the pro-  
ceeds thereof to be used in constructing and equipping a line of railroad,  
pursuant to certificate of public convenience and necessity in *Public-Con-  
venience Certificate to Flint Belt R. R.*, 70 I. C. C., 292, and as working  
capital.

*John C. Bills* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

By DIVISION 4:

The Flint Belt Railroad Company, a corporation organized for the  
purpose of engaging in transportation by railroad subject to the in-  
terstate commerce act, has duly applied for authority under section  
20a of the interstate commerce act to sell at par \$1,000,000 of com-  
mon capital stock.

Upon receipt of the application, a copy thereof was filed with the  
Governor of Michigan, the only State in which the applicant pro-  
poses to operate. The Michigan Public Utilities Commission filed an  
answer denying that we have jurisdiction. We are of opinion that  
we have jurisdiction. No other objection has been made to the grant-  
ing of the application.

It is proposed that the proceeds of such stock will be used for the  
following purposes:

Engineering-----	\$32, 603
Grading-----	250, 000
Bridges, trestles, and culverts-----	92, 360
Ties -----	44, 760
Rails -----	67, 600
Other track material-----	12, 863
Ballast-----	20, 000
Tracklaying and surfacing-----	31, 485
Right-of-way fences-----	9, 840
Crossings and signs-----	5, 300
Station and office buildings-----	12, 000
Telegraph and telephone lines-----	4, 100
	70 I. C. C.

Signals and interlocking plants-----	\$99, 500
Four switch engines-----	160, 000
Miscellaneous equipment-----	20, 000
Materials and supplies-----	10, 000
Working capital-----	50, 000
Reserve for taxes-----	25, 000
Reserve for contingencies of construction and early operation-----	50, 000
Organization expenses-----	5, 000
<hr/>	
Total-----	1, 002, 411

Cost of right of way is not included in the above items, as it appears that substantially all necessary land has been obtained by donation. These items are estimates only, and under our accounting classifications are chargeable to capital account.

By our certificate of public convenience and necessity, dated August 4, 1921, in *Public Convenience Certificate to Flint Belt R. R., supra*, the applicant was authorized to construct and operate a standard-gauge steam railroad, approximately 8.25 miles long, extending from a point on the Pere Marquette Railway about 0.25 mile south of the township line between Grand Blanc and Burton townships, and approximately 0.25 mile east of the section line between sections 32 and 33 in Burton township, thence north and northwesterly to a connection with the Pere Marquette Railway near the quarter-section post between sections 29 and 30 of Genesee township, in Genesee County, Mich.

We find that the proposed sale of capital stock by the applicant as aforesaid (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Flint Belt Railroad Company be, and it is hereby, authorized to sell for cash, at not less than par, 10,000 shares of common capital stock of the par value of \$100, the shares of stock so issued to be represented by certificates in the form submitted with the application, and the proceeds of the sale thereof to be used solely



in the construction and equipping of the line of railroad referred to in said report and as working capital for the operation thereof, as set forth in the application.

*It is further ordered,* That said stock shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, nor shall the proceeds thereof be used in any manner or for any purpose except as herein authorized.

*It is further ordered,* That the applicant shall, for the period ending December 31, 1921, and for each six months' period thereafter, report to this commission within 30 days after the close of such period, all pertinent facts relating (1) to the sale of said stock, and (2) to the application of the proceeds thereof, and continue to file such reports until all of said stock shall have been sold and all proceeds thereof applied, such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 1240.

IN THE MATTER OF THE JOINT APPLICATION OF THE  
NEW YORK, PHILADELPHIA & NORFOLK RAILROAD  
COMPANY AND THE PENNSYLVANIA RAILROAD COM-  
PANY FOR AN ORDER APPROVING AND AUTHORIZING  
CONTROL OF THE NEW YORK, PHILADELPHIA & NOR-  
FOLK RAILROAD COMPANY BY LEASE.

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*Submitted July 6, 1921. Decided August 5, 1921.*

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Acquisition by the Pennsylvania Railroad Company of control of the New York, Philadelphia & Norfolk Railroad, by lease, approved and authorized.

*F. D. McKenney, C. B. Heiserman, and A. J. County* for applicants.

REPORT OF THE COMMISSION,

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The New York, Philadelphia & Norfolk Railroad Company, hereinafter called the Norfolk, and the Pennsylvania Railroad Company, hereinafter called the Pennsylvania, carriers by railroad subject to the interstate commerce act, on February 15, 1921, filed their joint application pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing the Pennsylvania to acquire, by lease, control of the railroad, property, and franchises of the Norfolk, for the term of 999 years from July 1, 1920. A hearing was held upon this application, as required by law.

The railroad of the Norfolk extends from Delmar, at or near the line between the States of Maryland and Delaware, to Cape Charles, Va., with branches to Crisfield, Md., and Kiptopeke, Va., a total mileage of 121.57 miles. There is also included in the proposed lease the terminals of the Norfolk in the cities of Norfolk and Portsmouth, Va., and the ferry and transfer facilities between those terminals and Cape Charles.

Under the terms of the proposed lease the Pennsylvania is to pay to the Norfolk, as rental, the sum of \$300,000 per year, and in addition thereto a sum necessary to pay the expenses of maintaining its corporate organization, its taxes, and all installments of interest and sinking funds, when due and payable, on its bonded and other indebtedness. The proposed rental payment is equal to the annual dividend of the Norfolk for a number of years past. The Norfolk has an authorized capitalization of \$4,000,000, of which \$2,500,000

has been issued and is outstanding. Its income account for the year 1920 shows a net income of \$348,044.43, after paying operating expenses and taxes and making all deductions. Of this sum, \$73,786.23 was set aside for sinking and reserve fund requirements. Gross income for the same period was \$781,420.46. At the close of the year 1920, the investment in road and equipment was shown as \$13,777,143.64. Tentative figures of our Bureau of Valuation show a reproduction cost less depreciation of \$8,549,839 for roadway and structures, and land is valued at \$1,385,420.

The Pennsylvania owns all of the outstanding capital stock of the Norfolk, and so long as it continues to be the owner the payment of the rental will be no more than a matter of bookkeeping. The Norfolk's railroad does not parallel or compete with that of the Pennsylvania. For many years the companies have been affiliated and have interchanged and moved traffic as one system. The proposed arrangement, it is asserted, will eliminate the operating organization of the lessor and substitute that of the lessee, which should result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service by means of direct, instead of indirect, contact. The transaction is expected also to effect economies in the accounting department and simplify the work of making reports required by State and Federal laws.

Upon the facts presented, and upon the express condition that the Pennsylvania shall not sell, pledge, or otherwise dispose of the capital stock of the Norfolk, or any part thereof, without our consent, we find that the acquisition by the Pennsylvania of the control of the Norfolk, under the terms of the lease described in the application, will be in the public interest. An order will be issued accordingly.

#### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the Pennsylvania Railroad Company be, and it is hereby, authorized to acquire control of the railroad, property, and franchises of the New York, Philadelphia & Norfolk Railroad Company in accordance with the terms of the lease described in the application and the report aforesaid: *Provided*, That the authorization herein given is upon the express condition that the Pennsylvania Railroad Company shall not sell, pledge, or otherwise dispose of the capital stock of the New York, Philadelphia & Norfolk Railroad Company, or any part thereof, without the consent of the Interstate Commerce Commission.

FINANCE DOCKET No. 1388.

IN THE MATTER OF THE JOINT APPLICATION OF THE CUMBERLAND VALLEY & MARTINSBURG RAILROAD COMPANY AND THE PENNSYLVANIA RAILROAD COMPANY FOR AN ORDER APPROVING AND AUTHORIZING CONTROL OF THE CUMBERLAND VALLEY & MARTINSBURG RAILROAD COMPANY BY LEASE.

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*Submitted July 8, 1921. Decided August 5, 1921.*

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Acquisition by the Pennsylvania Railroad Company of control of the Cumberland Valley & Martinsburg Railroad, by lease, approved and authorized.

*F. D. McKenney, C. B. Heiserman, and A. J. County* for applicants.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Cumberland Valley & Martinsburg Railroad Company, hereinafter called the Cumberland, and the Pennsylvania Railroad Company, hereinafter called the Pennsylvania, carriers by railroad subject to the interstate commerce act, on April 8, 1921, filed their joint application, pursuant to paragraph (2) of section 5 of the interstate commerce act for an order authorizing the Pennsylvania to acquire, by lease, control of the railroad, property, and franchises of the Cumberland, for the term of 999 years from July 1, 1920. A hearing was held upon this application, as required by law.

The railroad of the Cumberland extends from a connection with the Pennsylvania's railroad at Powell's Bend, at or near the line between the States of Maryland and West Virginia, in a general southwesterly direction, to Winchester, Va., a distance of 33.73 miles.

Under the terms of the proposed lease the Pennsylvania is to pay to the Cumberland, as rental, the sum of \$42,000 per year, and in addition thereto a sum necessary to pay the expenses of maintaining its corporate organization and all installments of interest and sinking funds, when due and payable, on such bonded and other indebtedness as may be hereafter issued, with the consent of the Pennsylvania, and all taxes that the Cumberland shall be required to pay on or in respect of such bonded or other indebtedness.

The Cumberland has an authorized capitalization of \$700,000, all of which is issued and outstanding. Its income account for the year

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1920 shows a net income of \$177,926.28 after paying operating expenses and taxes and making all deductions. Gross income for the same period was \$220,611.63. At the close of the year 1920 the investment in road and equipment was shown as \$1,568,818.29. In January, 1921, the company declared a dividend of 25 per cent, which is the only dividend it has ever paid. The Cumberland has no securities outstanding with the exception of its capital stock. The proposed rental payment is equal to 6 per cent on the capital stock.

The Pennsylvania owns all of the outstanding capital stock of the Cumberland, and so long as it continues to be the owner the payment of the rental will be no more than a matter of bookkeeping. The Cumberland's railroad does not parallel or compete with the Pennsylvania's railroad, but constitutes an extension thereto. For many years the companies have been affiliated and have interchanged and moved traffic as one system, the Cumberland's railroad being, in effect, a continuation of the Cumberland Valley division of the Pennsylvania's railroad. It is claimed that the proposed arrangement will eliminate the operating organization of the lessor and substitute that of the lessee, which should result in added efficiency, and give the public the full benefit of the Pennsylvania's organization and service. The transaction is expected to effect economies in the accounting department and to simplify the work of compiling reports required by State and Federal laws.

Upon the facts presented we find that the acquisition by the Pennsylvania of the control of the Cumberland, under the terms of the lease described in the application, will be in the public interest. An order will be issued accordingly.

#### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the Pennsylvania Railroad Company be, and it is hereby, authorized to acquire control of the railroad, property, and franchises of the Cumberland Valley & Martinsburg Railroad Company in accordance with the terms of the lease described in the application and the report aforesaid: *Provided*, That the authorization herein given is upon the express condition that the Pennsylvania Railroad Company shall not sell, pledge, or otherwise dispose of the capital stock of the Cumberland Valley & Martinsburg Railroad Company, or any part thereof, without the consent of the Interstate Commerce Commission.

## FINANCE DOCKET No. 1410.

IN THE MATTER OF THE JOINT APPLICATION OF THE  
PERTH AMBOY & WOODBRIDGE RAILROAD COMPANY  
AND THE PENNSYLVANIA RAILROAD COMPANY FOR  
AN ORDER APPROVING AND AUTHORIZING CONTROL  
OF THE PROPERTY OF THE PERTH AMBOY & WOOD-  
BRIDGE RAILROAD COMPANY BY LEASE.

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*Submitted July 11, 1921. Decided August 5, 1921.*

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Acquisition by the Pennsylvania Railroad Company of control of the Perth Amboy & Woodbridge Railroad, by lease, approved and authorized.

*F. D. McKenney, C. B. Heiserman, and A. J. County* for applicants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

By DIVISION 4:

The Perth Amboy & Woodbridge Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, hereinafter called the Perth Amboy, and the Pennsylvania Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter called the Pennsylvania, on April 22, 1921, filed their joint application, pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing the Pennsylvania to acquire, by lease, the railroad, property, and franchises of the Perth Amboy for the term of 949½ years from January 1, 1921, should the lease dated June 30, 1871, of the United New Jersey Railroad & Canal Company to the Pennsylvania so long continue; otherwise until the termination of said last-mentioned lease. A hearing was held upon this application, as provided by law.

The railroad of the Perth Amboy extends from a connection with the railroad of the United New Jersey Railroad & Canal Company, leased to and operated by the Pennsylvania, at Rahway, N. J., in a general southerly direction to Perth Amboy, N. J., a distance of 6.33 miles.

The Perth Amboy has an authorized capitalization of \$250,000, of which \$228,400 has been issued and is outstanding. It has no securities outstanding with the exception of its capital stock. At the close of the year 1920 its road and equipment account showed an investment of \$450,790.39. For some years past it has paid annual dividends

at the rate of 18 per cent. The average annual net income for the past 10 years has been over \$71,000. Under the terms of the proposed lease the Pennsylvania is to pay to the Perth Amboy, as rental, the sum of \$13,704 per annum, and in addition thereto a sum necessary to pay the expenses of maintaining its corporate organization and all installments of interest and sinking funds, when due and payable, on such bonded and other indebtedness as may be hereafter issued, and all taxes that the Perth Amboy shall be required to pay on or in respect of such bonded or other indebtedness. The proposed rental payment is equal to 6 per cent on the outstanding capital stock.

The Pennsylvania, as lessee of the United New Jersey Railroad & Canal Company, owns all the outstanding stock of the Perth Amboy, and so long as it continues to be the owner, the payment of the rental will be no more than a matter of bookkeeping. The Perth Amboy's railroad does not parallel or compete with that of the Pennsylvania. For many years the railroads have been operated as one system, the railroad of the Perth Amboy being a connecting link between the main line of the Pennsylvania's New York division and points on the northern Jersey coast reached chiefly by the New York & Long Branch Railroad, over which the Pennsylvania operates jointly with the Central Railroad Company of New Jersey. It is claimed that the effect of the proposed lease will be to eliminate the operating organization of the lessor and substitute that of the lessee which should result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service. The transaction is also expected to effect economies in the accounting department and to simplify the work of compiling reports required by State and Federal laws.

It is stated that the Pennsylvania, as agent, has operated the Perth Amboy's railroad since 1889, and has paid to the Perth Amboy the net earnings of the line. The Perth Amboy is not an operating company. It files annual reports with this commission as a lessor company. All transportation over its line is conducted by the Pennsylvania.

Upon the facts presented we find that the acquisition by the Pennsylvania of the control of the Perth Amboy, under the terms of the lease described in the application, will be in the public interest. An order will be issued accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of



fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the Pennsylvania Railroad Company be, and it is hereby, authorized to acquire control of the railroad, property, and franchises of the Perth Amboy & Woodbridge Railroad Company in accordance with the terms of the lease described in the application and the report aforesaid: *Provided*, That the authorization herein given is upon the express condition that the Pennsylvania Railroad Company shall not sell, pledge, or otherwise dispose of the capital stock of the Perth Amboy & Woodbridge Railroad Company, or any part thereof, without the consent of the Interstate Commerce Commission.

## FINANCE DOCKET No. 1411.

IN THE MATTER OF THE JOINT APPLICATION OF THE NEW YORK BAY RAILROAD COMPANY AND THE PENNSYLVANIA RAILROAD COMPANY FOR AN ORDER APPROVING AND AUTHORIZING CONTROL OF THE PROPERTY OF THE NEW YORK BAY RAILROAD COMPANY BY LEASE.

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*Submitted July 14, 1921. Decided August 5, 1921.*

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Acquisition by the Pennsylvania Railroad Company of control of the New York Bay Railroad, by lease, approved and authorized.

*F. D. McKenney, C. B. Heiserman, and A. J. County* for applicants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The New York Bay Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, hereinafter called the New York, and the Pennsylvania Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter called the Pennsylvania, on April 22, 1921, filed their joint application, pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing the Pennsylvania to acquire, by lease, the railroad, property, and franchises of the New York for the term of 949½ years from January 1, 1921, should the lease dated June 30, 1871, of the United New Jersey Railroad & Canal Company to the Pennsylvania so long continue; otherwise until the termination of said last-mentioned lease. A hearing was held upon this application, as provided by law.

The railroad of the New York extends from a connection with the railroad of the United New Jersey Railroad & Canal Company, leased to and operated by the Pennsylvania, at Waverly, in the city of Newark, N. J., in a general easterly direction to Greenville, in the city of Jersey City, N. J., with two branches to Manhattan Transfer, in Newark, a total distance of 13.94 miles.

The New York has an authorized capitalization of \$6,000,000, all of which has been issued and is outstanding. It has an authorized bonded indebtedness of \$6,000,000, bearing interest at the rate of 4

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per cent per annum, of which \$5,201,000 was outstanding on December 31, 1920. At the close of the year 1920, its road and equipment account showed an investment of \$14,791,673.17. For a number of years past it has paid annual dividends at the rate of 1½ per cent.

Under the terms of the proposed lease the Pennsylvania is to pay to the New York as rental the sum of \$240,000 per annum, and in addition thereto a sum necessary to pay the expenses of maintaining its corporate organization, its taxes, and all installments of interest and sinking funds, when due and payable, on its bonded and other indebtedness. The proposed rental payment is equal to 4 per cent on the outstanding capital stock.

The Pennsylvania, as lessee of the United New Jersey Railroad & Canal Company owns all the outstanding stock of the New York, and so long as it continues to be the owner the payment of the rental will be no more than a matter of bookkeeping. The New York's railroad does not parallel or compete with that of the Pennsylvania. For many years the railroads have been operated as one system, the railroad of the New York constituting one of the chief freight terminals of the Pennsylvania on the New Jersey side of New York Bay. It is claimed that the proposed arrangement will eliminate the operating organization of the lessor and substitute that of the lessee which should result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service. The transaction is also expected to effect economies in the accounting department and to simplify the work of compiling reports required by State and Federal laws.

From 1890 to 1908 the Pennsylvania operated the railroad of the New York on a rental basis, and since the last-mentioned date it has exercised trackage rights over the line and has conducted, with its own equipment, the operation thereover, as a part of its New York division. The New York does not maintain any equipment. It files annual reports with this commission as a lessor company.

Upon the facts presented we find that the acquisition by the Pennsylvania of the control of the New York, under the terms of the lease described in the application, will be in the public interest. An order will be issued accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That the Pennsylvania Railroad Company be, and it is hereby, authorized to acquire control of the railroad, property, and franchises of the New York Bay Railroad Company in accordance with the terms of the lease described in the application and the report aforesaid: *Provided,* That the authorization herein given is upon the express condition that the Pennsylvania Railroad Company shall not sell, pledge, or otherwise dispose of the capital stock of the New York Bay Railroad Company, or any part thereof, without the consent of the Interstate Commerce Commission.

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## FINANCE DOCKET No. 1534.

## IN THE MATTER OF THE APPLICATION OF THE CENTRAL VERMONT RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO MEET MATURING INDEBTEDNESS.

*Submitted July 26, 1921. Decided August 5, 1921.*

Application granted in part and loan of \$65,000 approved.

*S. Deschenes* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER AND EASTMAN.

## BY DIVISION 4:

The Central Vermont Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on July 26, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to enable the applicant to meet its maturing indebtedness.

In the application, as amended and supplemented, the applicant set forth:

1. That the amount of the loan desired is \$75,000.
2. That the term for which the loan is desired is five years.
3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
To retire equipment notes, series D, due August 1, 1921.....	\$49,000	.....	\$49,000
To partially reimburse the treasury of applicant for equipment notes paid on August 1, 1920, and February 1, 1921.....	98,000	\$72,000	26,000
Total.....	147,000	72,000	75,000

4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is \$100,000 of applicant's refunding-mortgage gold bonds, due May 1, 1930.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to restore  
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its credit and strengthen its finances, thus enabling it properly to serve the transportation needs of the public.

The application was accompanied by such facts and detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation as we deemed pertinent to the inquiry.

After investigation, we find that the making in part of the requested loan for the purposes and in the amounts as follows:

Purposes.	Estimated cost.	Financed by applicant.	Loan by United States.
Maturing indebtedness: Equipment notes, series D, due August 1, 1921.....	\$49,000	.....	\$49,000
Matured indebtedness: Equipment notes paid August 1, 1920, \$49,000..... Equipment notes paid February 1, 1921, \$49,000.....	98,000	\$82,000	16,000
Total.....	147,000	82,000	65,000

is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

*Certificate No. 109 for a Loan under Section 210 of the Transportation Act, 1920 as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$65,000 by the United States to the Central Vermont Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet its maturing indebtedness, is necessary to enable the applicant properly to meet the transportation needs of the public.
2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish

reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$65,000.

4. That the time from the making thereof within which the loan is to be repaid in full is five years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be repaid in equal annual installments of \$13,000 consecutively in one to five years from the making thereof.

(b) The loan shall be secured by the pledge of \$100,000, principal amount, of applicant's refunding-mortgage 10-year 5 per cent gold bonds, due May 1, 1930, issued under an indenture of mortgage, dated May 1, 1920, executed and delivered by the applicant to the New York Trust Company, as trustee. Said bonds are in definitive coupon form having coupon due November 1, 1921, and all subsequent coupons attached, are in denomination of \$1,000, numbered M-12218 to M-12307, inclusive, and in denomination of \$500 numbered D-1043 to D-1062, inclusive.

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.



6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 5th day of August, 1921.

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## FINANCE DOCKET No. 1159.

## IN THE MATTER OF THE APPLICATION OF THE ATLANTA &amp; ST. ANDREWS BAY RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted June 20, 1921. Decided August 6, 1921.*

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Case held open pending determination of result of discontinuance of operation of a branch line of railroad between Panama City and St. Andrews, Fla., for an experimental period.

*John H. Carter, J. R. Wells, John B. Pruyn, and Wilbur LaRoe, jr.,* for applicant.

*Francis B. Carter, J. M. Sapp, and J. H. Drummond* for protestants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Atlanta & St. Andrews Bay Railway Company, a carrier by railroad subject to the interstate commerce act, on December 22, 1920, filed its application for a certificate that the present and future public convenience and necessity permit the abandonment of operation of a branch line of railroad extending from a point just north of Panama City to St. Andrews, Fla., a distance of 1.89 miles. The case was heard for us by the Railroad Commission of Florida, which recommended that the application be denied.

The applicant owns and operates a line of railroad extending from Dothan, Ala., to Panama City, Fla., a distance of approximately 82 miles. Said line connects at Dothan with the Atlantic Coast Line and the Central of Georgia Railway, and at Cottondale with the Louisville & Nashville Railroad. St. Andrews is a city of 1,300 inhabitants, situated on the west of Panama City. The western boundary of Panama City constitutes the eastern boundary of St. Andrews and the cities are connected by a well-built highway. The portion of the branch line proposed to be abandoned extends from a wye immediately north of Panama City to and through St. Andrews to a point on the bay shore. This branch is owned by the St. Andrews Bay Railway & Terminal Company and its total length is about 2.5 miles, including the wye, which is to be retained in service by the applicant. The branch has been in operation since Jan-

uary 1, 1915, under a contract between J. H. Drummond, a resident of St. Andrews, and A. B. Steele, then the president of the applicant and of the terminal company. The capital stock of both companies is apparently held under common ownership. By this contract Drummond conveyed to the terminal company the right of way for the branch by deeds conditioned upon the continued maintenance and operation of the railroad. The applicant has operated the line under a contract which apparently was never reduced to writing, and the terms of which are uncertain.

The applicant offered evidence tending to show that the operation of this branch is attended by financial losses so serious as to jeopardize the successful operation of its entire main line. It contends that this branch constitutes the most unprofitable part of its entire system, as shown by the fact that out of a total operating deficit of \$42,740.99, the sum of \$31,646.32 is directly attributable to the operation of the branch. Estimates of revenues and expenses are made by the applicant by allocating each to the branch on a mileage basis. The applicant shows that local passenger traffic on the branch averaged one passenger per train during 1920, and two passengers per train during 1917, 1918, and 1919. Local and through business on the branch averages five passengers per train. The applicant points out that a motor vehicle operated for hire runs between Panama City and St. Andrews on a 45-minute schedule, and furnishes a much faster service than is afforded by train. In the matter of freight revenues, the applicant's proof tends to show that the total gross earnings accruing to the applicant's whole system from the St. Andrews branch were \$65,202.03 for the five years last past. The only important item of business handled over the branch consists of shipments of fish consigned from St. Andrews by two fishermen located there. The entire carload movement of fish from St. Andrews from January 1, 1920, to January 17, 1921, amounted to 12 cars. As to this traffic the applicant pointed out that if the branch should be abandoned, shipments can be hauled by truck a distance of 1.7 miles over a good highway to the applicant's main line for shipment to destination. There are 11 merchants at St. Andrews, but so far as the record shows, they make little use of the branch, but receive their merchandise by truck from Panama City.

On the part of the protestants, it is contended that the question of profit or loss in the operation of the branch is immaterial if it is shown that there is a public need for continued service; that individuals who now protest the abandonment of the branch contributed largely to the cost of building it in consideration of its permanent operation; that the applicant's method of allocating revenues and expenses to the branch is wholly unreliable, but that all of the reve-

nues arising from the branch and all of the expenses of operating the same should have been separated from corresponding items accruing on the main line; that the applicant has omitted from its statement of revenues for 1920 a considerable amount of gravel which moved to St. Andrews, and that the needs of the community are such that public interest will suffer if the abandonment takes place.

The State commission in recommending that the application be denied states that pressure of other business has prevented it from making an analysis of the record and preparing a tentative report, but that in its opinion the abandonment of the branch would work an injustice to the residents of St. Andrews and make it very difficult for the fishermen operating there to handle their shipments. They point out that this industry has grown in recent years and that its removal from St. Andrews, as the result of the proposed abandonment, is a possibility. It is also of the opinion that the applicant's estimate of the cost of rehabilitating the branch line is excessive.

No certificate or order will be issued at this time. We are of the opinion that the effect of the proposed abandonment, both upon the applicant's income and upon the public convenience, can best be determined by discontinuance of operation over the branch line in question for an experimental period. Should the applicant elect to apply this test, at the close of 90 days of such discontinuance of operation opportunity will be given all interested parties to present further evidence to determine whether or not the discontinuance shall be made permanent. The applicant should take no steps to dismantle the line in the meantime, but should keep the same intact during the experimental period and until our further order.

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## FINANCE DOCKET No. 1531.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND &amp; PACIFIC RAILWAY COMPANY FOR AUTHORITY TO PLEDGE AND REPLEDGE BONDS AS SECURITY FOR NOTES.

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*Submitted July 23, 1921. Decided August 8, 1921.*

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Authority granted to pledge and repledge, from time to time, all or part of \$8,364,000 of first and refunding mortgage gold bonds (now pledged without our authorization) as collateral security for certain outstanding short-term notes, or for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*M. L. Bell* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Chicago, Rock Island & Pacific Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to pledge and repledge, from time to time, \$8,364,000 of first and refunding mortgage gold bonds as collateral security for certain outstanding short-term notes, or for any note or notes which it may issue within the limitations prescribed by paragraph (9) of section 20a of that act without our authorization therefor having first been obtained. No objection has been made to the granting of the application.

The bonds proposed to be pledged were authenticated and delivered to the applicant prior to the effective date of section 20a, to reimburse its treasury for expenditures made for construction or acquisition of property, or for the retirement of prior-lien bonds; they are payable April 1, 1934, and are secured by a mortgage dated April 1, 1904, made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York) and David R. Francis, trustees.

The applicant has outstanding certain issues of notes maturing not more than two years after their respective dates, aggregating \$4,500,000, representing extensions or renewals made since the effective date of section 20a of notes originally given for loans made prior to February 28, 1920. For one issue of these extended or

renewed notes, first and refunding mortgage gold bonds were and now are pledged in the ratio of \$200, principal amount, of bonds for each \$110, face amount, of notes, and for the other issues, \$200 of bonds for each \$100, face amount, of notes, as set forth in the application. The pledging of these bonds, however, was without our authorization and is therefore void.

Authority is now sought to pledge these bonds as collateral security for the above-mentioned notes in the same respective ratios of bonds to notes, and to repledge such bonds, from time to time, for any note or notes which the applicant may hereafter issue within the limitations mentioned in the first paragraph hereof.

We think that the pledging of these bonds by the applicant as security for notes should be in a ratio based on the prevailing market price of the bonds rather than on their par value. Our order herein will contain such a provision.

We find that the proposed pledge and repledge of bonds by the applicant (*a*) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That The Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to pledge and repledge, from time to time, all or any part of \$8,364,000, principal amount, of its first and refunding mortgage gold bonds (now pledged without authorization of this commission) as collateral security for the outstanding issues of notes, aggregating \$4,500,000, referred to in said report, and to repledge all or any part of said bonds as collateral security for any note or notes which may be issued by said applicant within the limitations of paragraph (9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained; such pledge or pledges to be in the ratio of not exceeding \$125 of bonds in value at their prevailing market price at the time of the pledge, for each \$100, face amount, of notes.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant, within 10 days after the pledge or repledge of any of its bonds as herein authorized, shall file with this commission certificates of notification to that effect; and, within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or notes, or interest thereon, on the part of the United States.

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FINANCE DOCKET No. 1536.

IN THE MATTER OF THE APPLICATION OF THE SAN ANTONIO & ARANSAS PASS RAILWAY COMPANY FOR AUTHORITY TO ISSUE EQUIPMENT NOTES.

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*Submitted July 28, 1921. Decided August 8, 1921.*

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Authority granted to execute and deliver, at par, to the General Equipment Company, Incorporated, \$39,587 of equipment notes in connection with the procurement of certain equipment.

*W. W. Green* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The San Antonio & Aransas Pass Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue equipment notes in the aggregate amount of \$39,587 in connection with the procurement of certain equipment. No objection has been offered to the granting of the application.

The application recites that additional equipment is necessary to enable the applicant properly to provide for the transportation of traffic which is offered. The applicant has, therefore, arranged to purchase, under an agreement of conditional sale with the General Equipment Company, Incorporated, 31 secondhand steel-underframe gondola cars at an aggregate cost of \$40,517. By the terms of the agreement, a copy of which was submitted with the application, \$930, or \$30 per car, is payable in cash upon shipment of the cars as evidenced by the bills of lading, the balance of the purchase price to be paid in 2 payments of \$930 each, 12 payments of \$3,100 each, and 1 final payment of \$527, such payments being payable consecutively in from 1 to 15 months, respectively, from the date of shipment of the cars described. For the deferred payments the applicant agrees to issue its negotiable promissory notes, dated when the equipment is ready for shipment, and maturing as aforesaid, each note to bear interest at the rate of 6 per cent per annum until paid. From and after the delivery of the equipment the applicant will have possession of it and the right to its use, but the title thereto will remain in the vendor until the full purchase price, including all

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the notes representing deferred installments, with interest, shall have been paid, when title will vest in the applicant.

The proposed notes and the applicant's other outstanding notes of a maturity of two years or less will together aggregate more than 5 per cent of the par value of its outstanding securities.

We find that the proposed issue of equipment notes by the applicant (*a*) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the San Antonio & Aransas Pass Railway Company be, and it is hereby, authorized to execute and deliver at par, to the General Equipment Company, Incorporated, pursuant to a proposed agreement of conditional sale covering certain railroad equipment, 15 promissory notes for not exceeding \$39,587, aggregate face amount; said notes to be dated as provided in said proposed agreement, and to be for various amounts payable to the order of said General Equipment Company, Incorporated, after date at intervals of one month, with interest at the rate of 6 per cent per annum, as follows:

	Maturity.	Amount.
No. 1.	1 month after date-----	\$930
No. 2.	2 months after date-----	930
No. 3.	3 months after date-----	3,100
No. 4.	4 months after date-----	3,100
No. 5.	5 months after date-----	3,100
No. 6.	6 months after date-----	3,100
No. 7.	7 months after date-----	3,100
No. 8.	8 months after date-----	3,100
No. 9.	9 months after date-----	3,100
No. 10.	10 months after date-----	3,100
No. 11.	11 months after date-----	3,100
No. 12.	12 months after date-----	8,100
No. 13.	13 months after date-----	3,100
No. 14.	14 months after date-----	3,100
No. 15.	15 months after date-----	527
		70 I. C. C.

said notes to be in the form submitted with the application, and to be used solely in the procurement of said equipment, as set forth therein.

*It is further ordered,* That, within 10 days after the execution and delivery of said conditional-sale agreement, a verified copy thereof in the form in which executed shall be filed with this commission.

*It is further ordered,* That said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, except as herein authorized.

*It is further ordered,* That the applicant shall, within 10 days thereafter, respectively, report to this commission in writing all pertinent facts relating to (1) the delivery of the equipment, (2) the issue and delivery of said notes, and (3) the payment of each of said notes, together with the account or accounts charged with the moneys expended in payment thereof; each report to be signed and verified by an executive officer of the applicant having knowledge of the matters contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said notes or interest thereon on the part of the United States.

## FINANCE DOCKET No. 1105.

## IN THE MATTER OF THE APPLICATION OF THE DETROIT &amp; TOLEDO SHORE LINE RAILROAD COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK AS DIVIDENDS.

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*Submitted July 30, 1921. Decided August 9, 1921.*

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Proposed issues of capital stock as dividends held not compatible with the public interest. Application denied.

*Walter A. Eversman* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Detroit & Toledo Shore Line Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$1,072,000 of its common capital stock. In order to capitalize expenditures for additions and betterments made by it out of earnings, it desires to issue a portion of such stock presently at par and as a dividend to its stockholders. For the purpose of enabling it to capitalize other similar expenditures from income earned or to be earned it prays for authority to issue the remainder of such stock at par and as dividends to its stockholders from time to time as such expenditures shall be made. To these ends the applicant intends to increase its authorized capital stock from \$1,500,000 to \$2,500,000.

The Michigan Public Utilities Commission filed an answer, which has been withdrawn. The Public Utilities Commission of Ohio filed an answer containing objections based upon our alleged lack of jurisdiction. We are of opinion that we have jurisdiction. No other objections to the granting of the application have been offered.

From July 1, 1913, to September 30, 1920, the applicant, according to the evidence, expended out of earnings for additions and betterments \$440,911.92, which has not been capitalized and which it proposes to capitalize as aforesaid.

When the application was filed the applicant had outstanding \$1,428,000 of stock, \$3,000,000 of mortgage bonds, and \$501,000 of equipment-trust notes, a total of \$4,929,000. Its balance sheet as of

November 30, 1920, shows an investment in road and equipment of \$5,388,197.66, and a surplus of \$837,056.14. The evidence, however, fails to establish satisfactorily that the value of the applicant's road and equipment, plus a proper sum for working capital and for materials and supplies, exceeds or equals the present capitalization of the applicant. Therefore, the applicant will not be authorized to capitalize, in whole or in part, its above-mentioned expenditures for additions and betterments.

The applicant seeks authority also to issue stock dividends from time to time, as further expenditures shall be made from income for additions and betterments, thus capitalizing such expenditures. Authority therefor should be requested when the expenditures have been made.

An appropriate order denying the application will be entered.

### ORDER.

Hearings having been held in this proceeding, and full investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the application in this proceeding be, and it is hereby, denied.

70 I. C. C.

## FINANCE DOCKET No. 1478.

## IN THE MATTER OF THE APPLICATION OF THE PERE MARQUETTE RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted August 5, 1921. Decided August 9, 1921.*

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Certificate issued authorizing the abandonment of a branch line of railroad in Benzie County, Mich.

*John C. Bills* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Pere Marquette Railway Company, a carrier by railroad subject to the interstate commerce act, on June 15, 1921, filed an application for a certificate that the present and future public convenience and necessity permit the abandonment of a branch line of the applicant's railroad extending from the station of Clary to the station of Carters, both in Benzie County, Mich., a distance of approximately 4.45 miles. No representations were made by the authorities of the State of Michigan either for or against the granting of the application. The case was submitted without formal hearing.

The construction of the line in question was commenced in 1893, when about 2.5 miles of roadbed and track were completed. In 1895 an extension of about 7 miles was added. The main purpose for which this line was built was to provide transportation for forest products. The supply of forest products was exhausted several years ago, and in 1918 about 4.5 miles of the line were dismantled. The remaining track, which the carrier now seeks permission to abandon, has been used since 1918 mainly to serve the Desmond Charcoal & Chemical Company. The business of that concern is now being abandoned owing to the exhaustion of raw material suitable for its purposes.

The territory served by this branch is largely devoted to agriculture. The population has decreased several thousand during the past 10 years. Should the proposed abandonment be permitted it is not likely that any great inconvenience will be suffered by anyone since the main lines of the Pere Marquette Railway, the Ann Arbor

Railroad, and the Manistee & Northeastern Railway all serve the territory and provide it with adequate and reasonably convenient transportation service. There are no towns or villages on the branch proposed to be abandoned. There is no prospect that any new traffic will be available in the near future.

There being no substantial need for the continued operation of the branch, we find that the present and future public convenience and necessity permit its abandonment. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Pere Marquette Railway Company of its line of railroad between Clary and Carters, Mich., described in the application and report aforesaid.

*It is ordered,* That said Pere Marquette Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Pere Marquette Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.



## FINANCE DOCKET No. 1058.

## IN THE MATTER OF THE APPLICATION OF THE MONONGAHELA RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO PROVIDE ADDITIONS AND BETTERMENTS.

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*Submitted June 4, 1921. Decided August 10, 1921.*

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Applicant having failed to meet the conditions required, and upon its request, application dismissed.

*H. C. Nutt* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Monongahela Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on February 12, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to enable the applicant to provide itself with additions and betterments. On March 16 and June 3, 1921, the applicant amended and supplemented the application.

In the application, as amended and supplemented, the applicant set forth:

1. That the amount of the loan desired is \$1,000,000.
2. That the term for which the loan is desired is eight years.
3. The purposes of the loan and the use to which it will be applied.
4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.
5. That the security offered is \$1,300,000, principal amount, of applicant's first and refunding 50-year series-B 6 per cent gold bonds, proposed to be issued.
6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to provide needed track, yard, and terminal facilities required to meet the demand from the public for the production of additional coal and coke.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the

## FINANCE DOCKET No. 1210.

IN THE MATTER OF THE APPLICATION OF THE  
NORTHERN PACIFIC RAILWAY COMPANY FOR AP-  
PROVAL OF ACQUISITION OF PROPERTIES OF THE  
BILLINGS & CENTRAL MONTANA RAILWAY COM-  
PANY.

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*Submitted July 12, 1921. Decided August 10, 1921.*

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Proposed acquisition by the Northern Pacific Railway Company of the prop-  
erties of the Billings & Central Montana Railway Company approved and  
authorized.

*C. W. Bunn and D. F. Lyons* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Northern Pacific Railway Company, a carrier by railroad engaged in the transportation of passengers and property subject to the interstate commerce act, on January 13, 1921, filed an application pursuant to paragraph (2) of section 5 of said act, for authority to acquire all of the properties of the Billings & Central Montana Railway Company, hereinafter called the Montana. A hearing was held as required by law.

The Montana's property consists of approximately 13 miles of railroad extending from Billings, Mont., to the town of Shepard, Mont. Access to applicant's line at Billings is obtained under a trackage agreement with the Chicago, Burlington & Quincy Railroad. The line was constructed in 1913 by the Northwestern Improvement Company, a nonoperating company controlled by the applicant through ownership of its entire capital stock. The Montana has outstanding \$212,000 par value of capital stock, all of which is owned by the improvement company. The cost of building the line, \$220,445.04, is carried on the improvement company's books as cash advanced, to which there is to be added interest from the date of each advance to January 1, 1921, amounting in all to \$93,252.83. The applicant proposes to pay to the improvement company the sum of these two items, with such additional interest as may have accrued at the date of the transfer, receiving therefor a conveyance of the physical property and a transfer of all of the capital stock of the Montana.

The line in question was built to serve a territory devoted principally to agriculture, most of the land being under irrigation, and giving promise, as applicant believes, of considerable further development in the near future. In the three years ending December 31, 1920, the Montana handled 1,343 carloads of products, chiefly agricultural, but for the period from 1913 to June 30, 1920, a deficit of \$16,459.92 was experienced. Applicant, however, expects to be able to reduce operating expenses and accounting costs by conducting operation of the line as a part of its system and with its own organization, so as to show a profit in the future. The applicant offered evidence tending to establish a cost of reproduction new, including normal overhead allowances, of \$315,472, which amount is substantially equal to the sum it proposes to pay for the property. It does not seem proper to authorize the purchase at any sum in excess of the actual cost of building the line or to permit the applicant to write into its investment accounts any sum in excess of such cost. The interests of the community served by the line require that operation be continued, and it is obvious that such operation can be conducted more economically through the applicant's organization.

Upon the facts presented we find that the acquisition by the applicant of the properties of the Montana, upon the terms above outlined, will be in the public interest. An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the proposed acquisition by the Northern Pacific Railway Company of the properties of the Billings & Central Montana Railway Company be, and the same is hereby, approved and authorized: *Provided, however*, That this approval is granted upon condition that the applicant shall not pay for said properties any sum in excess of \$220,445.04, and shall not enter any sum in excess of that amount in its cost of road and equipment accounts.

*It is further ordered*, That said Northern Pacific Railway Company, when filing schedules adopting tariffs applicable to and from points on said line of railroad to be acquired, shall in such schedules make specific reference to this order by title, date, and docket number.

## FINANCE DOCKET No. 1519.

IN THE MATTER OF THE APPLICATION OF THE  
LONG FORK RAILWAY COMPANY FOR AUTHORITY  
TO ISSUE CAPITAL STOCK AND FIRST-MORTGAGE  
BONDS.

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*Submitted July 23, 1921. Decided August 10, 1921.*

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Authority granted to issue \$485,000 of capital stock and \$1,347,500 of first-mortgage bonds and to deliver these securities to the Baltimore & Ohio Railroad Company in settlement of advances made by that company to the applicant for capital purposes.

*W. D. Owens* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Long Fork Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$485,000 of capital stock and \$1,347,500 of first-mortgage bonds, and to deliver these securities to the Baltimore & Ohio Railroad Company, hereinafter termed the railroad company, in settlement, to the extent of the par amount thereof, of advances made by that company to the applicant. No objection has been made to the granting of the authority requested.

The applicant is a subsidiary of the railroad company, its outstanding capital stock, with the exception of the qualifying shares of directors, being held by that company.

The applicant represents that the railroad company had expended \$1,832,651.06 to February 28, 1921, for the original construction of and additions to the railroad and properties of the Long Fork Railway Company. The railroad company will accept the securities to which this proceeding relates in settlement, to the extent of the par amount thereof, of the aforesaid expenditures.

The proposed issue of capital stock will be part of an authorized issue of \$500,000, of which \$15,000 is now issued and outstanding.

70 I. C. C.

The bonds will be secured by a proposed first mortgage to be dated as of June 1, 1921, to the Maryland Trust Company, trustee, and will bear interest at the rate of 6 per cent per annum and mature December 1, 1995.

We find that the proposed issue and delivery by the applicant to the railroad company of capital stock and first-mortgage bonds, as aforesaid, (a) are for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Long Fork Railway Company be, and it is hereby, authorized (1) to issue 4,850 shares of its capital stock of the par value of \$100; the shares of stock so issued to be represented by certificates in the form submitted with the application; and (2) to issue \$1,347,500, principal amount, of first-mortgage bonds under and pursuant to, and to be secured by a proposed first mortgage to be made by the applicant as of June 1, 1921, to the Maryland Trust Company, trustee; said bonds to be in coupon and/or registered form, to be in denominations of \$500 or multiples thereof, to bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1, to mature December 1, 1995, and to be in the form set forth in the copy of said proposed mortgage submitted with the application; all of the aforesaid securities to be delivered by the applicant to the Baltimore & Ohio Railroad Company at par for the purposes stated in said report.

*It is further ordered*, That within 10 days after the execution and delivery of said first mortgage, an authenticated copy thereof shall be filed with this commission in the form in which executed.

*It is further ordered*, That, except as herein authorized, said securities shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue and delivery of said securities; such report to be signed and verified by an executive officer of the applicant having knowledge of the facts contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said securities, or interest or dividends thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1524.

## IN THE MATTER OF THE APPLICATION OF THE WHEELING &amp; LAKE ERIE RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING-MORTGAGE BONDS.

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*Submitted July 27, 1921. Decided August 10, 1921.*

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Authority granted to pledge \$451,000 of refunding-mortgage 6 per cent bonds, series C, with the Secretary of the Treasury as partial security for a loan from the United States under section 210 of the transportation act, 1920, as amended.

*Squire, Sanders & Dempsey and Andrew P. Martin for applicant.*

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Wheeling & Lake Erie Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$451,000 of its refunding-mortgage 6 per cent bonds, series C, for pledge with the Secretary of the Treasury as partial security for the last installment of a loan of \$1,460,000 from the United States under section 210 of the transportation act, 1920, as amended. No objection has been offered to the granting of the application.

By the provisions of the applicant's refunding mortgage, dated September 1, 1916, to the Central Trust Company of New York, the applicant is authorized to issue bonds to the amount of \$28,644,300, bearing interest at the rate of 6 per cent per annum and maturing September 1, 1966, for the purpose, among others, of reimbursing its treasury for expenditures which may have been made for additions and betterments to its operating property. Of this amount, \$6,619,000 of bonds have already been issued.

The applicant shows that during the period from January 27, 1921, to July 14, 1921, it expended \$451,838.37 in installing a new car-repair building at Brewster, Ohio, and new yard facilities at Canton and Jewett, Ohio, which are well advanced toward completion; and that no part of these expenditures has been heretofore capitalized. The applicant is therefore entitled to draw down bonds in order to reimburse its treasury for the expenditures so made.



On October 12, 1920, we approved a loan from the United States to the applicant under section 210 of the transportation act, 1920, as amended, in the amount of \$1,460,000. This loan was to be in four installments, three of which have already been obtained by the applicant. As security for the fourth installment of the loan, amounting to \$260,000, we required that the applicant pledge with the Secretary of the Treasury \$400,000 of series-C bonds, and furnish a surety bond guaranteeing the pledge of \$260,000 additional when they become available. By our order of March 28, 1921, in *Bonds of Wheeling & Lake Erie Ry.*, 67 I. C. C., 338, the applicant was authorized to pledge \$84,000 of series-C bonds as partial security for this fourth installment of the loan. With the authority now sought, therefore, the applicant will be enabled to pledge \$400,000 of bonds in compliance with the first-mentioned requirement, and will have available \$135,000 of the additional \$260,000 of bonds to be pledged as guaranteed by the surety bond.

We find that the proposed issue of refunding-mortgage bonds, series C, by the applicant, as aforesaid, (a) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part thereof:

*It is ordered,* That the Wheeling & Lake Erie Railway Company be and it is hereby, authorized to pledge with the Secretary of the Treasury not exceeding \$451,000, aggregate principal amount, of its refunding mortgage bonds, series C; said bonds to be issued under and pursuant to, and to be secured by, the refunding mortgage dated September 1, 1916, made by the applicant to the Central Trust Company of New York, to bear interest at the rate of 6 per cent per annum payable semiannually on March 1 and September 1 in each year, and to mature September 1, 1966; said bonds to be so pledged as part security for an installment of \$260,000 of a loan to the applicant from the United States under section 210 of the transportation act, 1920, as amended, in the aggregate amount of \$1,460,000 as provided in this commission's certificate No. 24, dated October 12, 1920, in *File No. 1038*.

*It is further ordered*, That, except as herein authorized to be pledged, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the pledge of said bonds, and (2) to their release from pledge; such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

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FINANCE DOCKET No. 1533.

APPLICATION OF GREAT NORTHERN RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO MEET MATURING INDEBTEDNESS.

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*Submitted August 3, 1921. Decided August 10, 1921.*

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Application granted and loan of \$15,000,000 approved.

*E. C. Lindley* for the carrier.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Great Northern Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on July 26, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to enable it to meet maturing indebtedness.

In the application the applicant sets forth:

1. That the amount of the loan desired is \$15,000,000.
2. That the term for which the loan is desired is five years.
3. That the purpose of the loan and the use to which it will be applied are to enable applicant to repay at maturity, September 1, 1921, that part of the previous loan of \$17,910,000 made to it under said section 210 as is evidenced by paragraph 5 of our certificate No. 13, July 28, 1920, as amended and supplemented, to the Secretary of the Treasury, 65 I. C. C., 78, 139, 258; 67 I. C. C., 41.
4. Its present and prospective ability to repay the loan and to meet its obligations in regard thereto.
5. That the security offered is applicant's general-mortgage series-A 7 per cent gold bonds, due July 1, 1936.

the First National Bank of the City of New York, as trustee. Said bonds are in temporary form, without coupons, exchangeable for definitive coupon bonds of the same series, aggregate principal amount, substantially identical in tenor and of authorized denominations, when prepared. Said temporary bonds are numbered and of principal amounts as follows:

Bond No. TB-1-----	\$5, 000, 000
Bond No. TB-2-----	5, 000, 000
Bond No. TB-3-----	5, 000, 000
Bond No. TB-7-----	3, 000, 000
Bond No. TB-8-----	500, 000
Bond No. TB-11-----	344, 000
Total -----	18, 844, 000

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 23d day of August, 1921.

## FINANCE DOCKET No. 972.

## IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE INTERNATIONAL &amp; GREAT NORTHERN RAILWAY COMPANY FOR A LOAN TO AID IN PROVIDING ADDITIONS AND BETTERMENTS.

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*Submitted August 9, 1921. Decided August 11, 1921.*

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Upon supplemental application amount of loan reduced from \$260,750 to \$194,300. Previous report, 67 I. C. C., 130.

*Jas. A. Baker and Samuel B. Dabney* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

James A. Baker, receiver of the International & Great Northern Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the receiver, on May 29, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, to aid in the purchase of equipment and in the making of other additions and betterments, and on September 20, 1920, and January 15, 1921, amended and supplemented the application.

On February 18, 1921, pursuant to the aforesaid application, we issued our report and certificate No. 74 to the Secretary of the Treasury, 67 I. C. C., 130, approving a loan of \$260,750 to the receiver, being 50 per cent of the then total estimated cost of equipment, consisting of eight new locomotives and additions and betterments consisting of 500 tons of new rail.

On August 2, 1921, the receiver made application to us for a reduction in the amount of the aforesaid loan to \$194,300, representing that the loan in respect of new rail is not now needed and that he has effected a saving of \$97,900 in the cost of the locomotives.

After investigation we find that the loan should be reduced to the amount and restricted to the purposes shown below: Four mikado locomotives at \$63,250 each, estimated cost \$253,000, and four switching locomotives at \$33,900, estimated cost \$135,600, total, \$388,600; to be financed by receiver, \$194,300; to be loaned by the United States, \$194,300.

An appropriate amended certificate No. 74 will be issued.

70 I. C. C.

*Amended Certificate No. 74 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 74, of February 18, 1921, to read as follows:

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$194,300 by the United States to James A. Baker, receiver of the International & Great Northern Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the receiver, for the purpose of aiding the receiver in providing himself with new equipment, is necessary to enable the receiver properly to meet the transportation needs of the public.

2. That the prospective earning power of the receiver and the character and value of the security offered are such as to furnish reasonable assurance of the receiver's ability to repay the loan within the time fixed therefor and to meet his other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$194,300.

4. That the time from the making thereof within which the loan is to be repaid in full is five years.

5. That the terms and conditions of the loan, including the security to be given for repayment are:

(a) The loan shall be repaid in equal annual installments of \$38,860 consecutively, in one to five years from the making thereof, and shall be secured by the pledge of receiver's certificates of indebtedness in a principal amount equal to the amount of the loan. Said receiver's certificates of indebtedness shall be substantially in the form set forth in a certain decree of the United States District Court for the Southern District of Texas, Houston Division, entered of record the 6th day of July, 1921, in the case entitled *Central Trust Company of New York* (now the Central Union Trust Company of New York) v. *The International & Great Northern Railway Company, et al*, cause No. 49 in equity. The obligations evidencing the loan shall be further secured as provided in said order.

(b) The receiver may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(c) So long as the receiver shall not be in default on any obligation evidencing the loan, he shall be entitled to receive and retain the

70 I. C. C.

income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the receiver shall not be in default, collect such income, but shall remit to the receiver all of the same paid to him, and shall surrender to the receiver all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The receiver shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore as security for this loan or any other obligation of the receiver to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any or all such loans.

(e) The receiver has agreed in an instrument in writing, dated the 31st day of August, 1921, filed with the Interstate Commerce Commission, to the following conditions: The amount to be financed by the receiver in connection with the loan shall be so financed that the cost to him of any loans secured from sources other than the United States shall not exceed  $7\frac{1}{2}$  per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loan. In event the commission shall certify to the Secretary of the Treasury that the receiver has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan as the commission may designate shall, at the option of the holder, become due and payable.

6. That the earning power of the receiver, together with the character and value of the security offered, furnish in the opinion of the commission, reasonable assurance of the receiver's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the receiver, in the opinion of the commission, is unable to provide himself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 6th day of September, 1921.

70 I. C. C.



## FINANCE DOCKET No. 1018.

IN THE MATTER OF THE APPLICATION OF THE SHEARWOOD RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS AND IN MAKING ADDITIONS AND BETTERMENTS.

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*Resubmitted August 10, 1921. Decided August 11, 1921.*

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Diversion of funds loaned under section 210 of the transportation act, 1920, as amended, authorized. Previous report, 65 I. C. C., 367.

AMENDED REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Shearwood Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 27, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended. On November 9, 1920, pursuant to said application, we issued our report and certificate No. 41 to the Secretary of the Treasury, 65 I. C. C., 367, approving a loan of \$29,000 to the applicant for the following purposes:

Maturing indebtedness-----	\$11,000
Additions and betterments-----	18,000
Total -----	29,000

On June 30 and August 6, 1921, the applicant reported to us an unexpended balance of approximately \$8,378 from the aforesaid loan for additions and betterments and requested our authority to apply this balance toward the liquidation of its indebtedness to the Hibernia Bank of Savannah, Savannah, Ga.

After investigation, we are of the opinion that the diversion of the unexpended balance of the proceeds of the loan for additions and betterments as aforesaid will, in addition to being of great financial advantage to the applicant, also protect its solvency and prevent receivership.

We therefore find that the requested authority be, and it is hereby, granted, and our report of November 9, 1920, is hereby amended accordingly.



FINANCE DOCKET No. 1482.

IN THE MATTER OF THE APPLICATION OF THE PEARL RIVER VALLEY RAILROAD COMPANY FOR AUTHORITY TO ISSUE NOTES.

Submitted July 8, 1921. Decided August 11, 1921.

Authority granted to issue, from time to time, unsecured promissory notes at any one time not to exceed \$27,500 in renewal of certain outstanding notes.  
T. Brady, jr., for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Pearl River Valley Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue from time to time, for a period of 12 months, its unsecured promissory notes in the aggregate amount of \$27,500, in renewal of the following outstanding notes:

Payee.	Maturity.	Amount.
Marine Bank & Trust Company, New Orleans, La.....	July 5, 1921	\$8,500
Marine Bank & Trust Company, New Orleans, La.....	Aug. 3, 1921	4,000
Bank of Picayune, Picayune, Miss.....	June 23, 1921	10,000
Pearl River County Bank, Picayune, Miss.....	July 1, 1921	5,000

No objection has been made to the granting of the application.  
In our order in *Notes of Pearl River Valley R. R.*, 67 I. C. C., 1, we authorized the applicant to issue certain notes, including those described above. The applicant states that it was unable to pay these notes at maturity and has arranged for their renewal from time to time for a period of 12 months. The matured notes payable to the Marine Bank & Trust Company bore interest at the rate of 7 per cent per annum, while the two remaining notes bore interest at the rate of 8 per cent per annum. The interest rate on the proposed notes will not exceed 8 per cent per annum.  
The notes now proposed to be issued and the applicant's other outstanding notes of a maturity of two years or less will aggregate more than 5 per cent of the par value of its outstanding securities.

We find that the proposed issue of promissory notes by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Pearl River Valley Railroad Company be, and it is hereby, authorized to issue, from time to time, during a period of not exceeding 12 months from the date hereof, its unsecured promissory notes in an aggregate face amount outstanding at any one time not exceeding \$27,000, with interest at a rate not to exceed 8 per cent per annum, in renewal of notes now outstanding in amounts and maturing as follows:

Payee.	Maturity.	Amount.
Marine Bank & Trust Company, New Orleans, La.....	July 5, 1921	\$8,800
Marine Bank & Trust Company, New Orleans, La.....	Aug. 3, 1921	4,000
Bank of Picayune, Picayune, Miss.....	June 23, 1921	10,000
Pearl River County Bank, Picayune, Miss.....	July 1, 1921	5,000

*Provided, however*, That the maturity of any note or notes so issued in accordance with the authority herein granted shall not, unless and until otherwise ordered by this commission, extend beyond one year from and after the date hereof.

*It is further ordered*, That said renewal notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, except as herein authorized.

*It is further ordered*, That the applicant shall within 10 days after (1) the issue of said notes, and (2) the payment or satisfaction thereof, report to this commission all pertinent facts relating thereto, each of said reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

FINANCE DOCKET No. 1237.  
THE CLEVELAND PASSENGER TERMINAL CASE.

*Submitted August 2, 1921. Decided August 12, 1921.*

Applications of the New York Central Railroad Company, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the New York, Chicago & St. Louis Railroad Company for certain certificates of public convenience and necessity under paragraph (18) of section 1 of the interstate commerce act and for certain authority under paragraph (2) of section 5 of said act in connection with the construction in Cleveland, Ohio, of a new through passenger route and passenger terminal by the Cleveland Union Terminals Company, dismissed.

*F. L. Jerome* for the New York Central Railroad Company and the Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

*H. D. Howe* for the New York, Chicago & St. Louis Railroad Company.

*Newton D. Baker* and *C. W. Stage* for the Cleveland Union Terminals Company.

*Peter Witt* on his own behalf.

*William B. Woods*, director of law of Cleveland, for *W. S. Fitzgerald*, mayor of Cleveland, intervener.

*William C. Boyle* for the Wheeling & Lake Erie Railway Company; *B. D. Holt* and *Cook, McGowan, Foote, Bushnell & Lamb* for *William Averell Brown* and *Jean Brown McCook*, trustees, and *Mary G. Clarke*, *Anna Grace Carter*, and *Edward Bushnell*, trustee, interveners.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS McCHORD, MEYER, EASTMAN, POTTER,  
ESCH, AND CAMPBELL.

BY DIVISION 4:

This proceeding has to do with the proposed construction of a new passenger station and of a new route for the movement of passenger trains in the city of Cleveland, Ohio, to be used by the New York Central Railroad Company, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the New York, Chicago & St. Louis Railroad Company. These carriers will hereinafter be referred to, respectively, as the Central, the Big Four, and the Nickel Plate. As will later more fully appear, they are applicants for certain certificates of public convenience and necessity, under para-

graph (18) of section 1 of the interstate commerce act, which are deemed necessary in connection with the new construction proposed, and also for authority under paragraph (2) of section 5 to join in an agreement for the acquisition of the entire capital stock of the Cleveland Union Terminals Company, hereinafter called the Terminals Company.

The Wheeling & Lake Erie Railway Company was given leave to intervene, but later withdrew from the case after protecting its interests by a stipulation with applicants and the Terminals Company. Permission to intervene was also granted to W. S. Fitzgerald, mayor of Cleveland, and to certain individual property owners of that city. The Governor of Ohio and the mayor of Cleveland both recommended that the applications be granted.

The need for a new main passenger station at Cleveland is clear. The present structure on the lake front was completed in 1865, at which time the city had a population of about 70,000 as contrasted with 800,000 in 1920. It is used by the Central, the Big Four, and the Pennsylvania, and is both antiquated and inadequate. For many years the construction of a new station has been the subject of negotiations between the railroads and the municipal authorities. These negotiations culminated in the passing of an ordinance, approved in November, 1915, by a referendum vote of 68,357 for to 17,153 against, providing for the erection of a union passenger depot on the lake front at what is called the Mall site, to the east of but not far from the present station. This ordinance was accepted by the Central, the Big Four, and the Pennsylvania. So located, the new station would be a part of a group plan of monumental public buildings, some of which have already been constructed or are in the process of construction. Shortly before our entrance in the war, however, the railroads notified the city that they were not in a position to begin construction.

In the meantime, O. P. and M. J. Van Sweringen, who had developed a suburban residential district known as Shaker Heights and were interested in securing rapid transit between that district and the business section, had built an electric line, known as the Cleveland & Youngstown, for a portion of the distance and had gained control of the Nickel Plate. Starting with the idea of bringing the Cleveland & Youngstown to a point near to the Public Square in the heart of the city by using the right of way of the Nickel Plate, the Van Sweringens developed a plan for a stub-end passenger station at the Public Square for all interurban electric lines entering Cleveland and for three steam railroads, namely, the Nickel Plate, the Wheeling & Lake Erie, and the Erie. With this in view they organized the Terminals Company. This plan, apparently, was not

acceptable to either the Erie or the Wheeling & Lake Erie, but upon suggestion of the Central it was further developed into a plan for a new through passenger route with a union station on the Public Square, to be used by the interurbans and also by all of the steam railroads serving Cleveland including, in addition to those which have already been mentioned, the Baltimore & Ohio. An initiated ordinance providing for the erection of such a station, the opening of the new route, and for certain improved freight facilities, was submitted to the people in January, 1919, and approved by a vote of 30,758 for to 19,916 against.

As approved by the popular vote, the ordinance contemplated that the station on the Public Square should be a substitute for the station on the Mall, and to become effective it required election of the three companies which were committed to the latter project to use the substituted facilities. This the Pennsylvania declined to do, after thorough investigation of the new plan, and the ordinance was, therefore, amended by the city council so that the election of only two of the three companies would suffice. It further appears that at the time of the popular vote the promoters of the project represented that the station on the Public Square would be "a real union passenger station," that the beginning of construction at an early date could be anticipated, and that it would provide work for returning soldiers. As the matter now stands, however, there is no assurance that the station will be used by any steam railroads except the Central, the Big Four, and the Nickel Plate.

To understand the arguments in favor of the new plan, a knowledge of the topography of the city is necessary. The land on which the city lies rises abruptly from the shore of the lake, but is cut by the valley of the Cuyahoga River, some 60 to 100 feet deep, and by tributary gullies. The river empties into the lake just west of the union passenger station, and although narrow and winding, there is much shipping upon it. The Central and the Nickel Plate have the only lines passing through Cleveland, and the Big Four enters with its main line. All other routes reaching the city gain entrance from comparatively short branches running from their main lines farther south. The main line of the Central, over which its passenger traffic now moves, is located on the low strip of land along the lake front. There are in general four main tracks east of the Cuyahoga River, running through a highly developed industrial district with numerous industrial tracks. Much switching is done from the main tracks to serve these industries. West of the Cuyahoga River there is less congestion and more room for expansion. The Pennsylvania connects with this main line of the Central near the passenger station on the east and the Big Four near it on the west, and the main line is

carried across the Cuyahoga River on a single-track drawbridge of such low elevation that it must be opened for nearly all boats. Just west of the bridge the Pennsylvania has extensive ore docks and its ore trains use the bridge and cross the tracks of the Central at grade, just east of the station. The Big Four also crosses at grade. Operation over the Central's main line is greatly hindered by these two grade crossings and by the single-track drawbridge.

Owing to the congestion of the lake-front tracks as early as 1904, the Cleveland Short Line was built in that year by the Central, extending from Collinwood on the east to a point on the main line near Rockport on the west, a distance of about 20 miles. This line passes south of the main part of the city and was built at a cost of over \$16,000,000 to provide a through freight route; but there has since been extensive industrial development along it which tends to hinder through movement. It is a double-track line with five tunnels and a large viaduct crossing the Cuyahoga River. At present through freight is routed almost wholly over this line, and the main line along the lake is confined to passenger traffic and local freight operations.

The evidence shows that the station tracks on the lake front are insufficient in length and number and that the approach tracks are inadequate. It is stated that at times passenger trains are required to wait outside the station for as much as 30 minutes after arriving within the yard limits. The congestion at the lake front also interferes with traffic over the Big Four. The evidence further indicates that in a normal period the Central originates approximately 1,000 cars of freight at Cleveland every 24 hours and that at times it must elect between permitting local business to stand idle or refusing to handle through traffic. In the period of congestion during and following the war, the situation at Cleveland appears to have been one of the most important limiting factors in the movement of the Central's eastbound and westbound traffic.

The plans submitted provide for a new passenger route through the city with a station at the southwest corner of the Public Square. The station and terminal facilities are to be constructed by the Terminals Company. From about West Twenty-fifth Street on the west, where connection will be made with the tracks of the Big Four, to a point near East Fortieth Street on the east, where connection will be made with tracks to be laid on the right of way of the Nickel Plate, the tracks are to be built and owned by the Terminals Company on a new right of way. These points, about 4 miles apart, are called the terminal limits. East of these limits, the necessary trackage is to be provided on the rights of way of the Nickel Plate and the Cleveland Short Line, connecting with the main line of the



Central just west of Collinwood yard. West of the terminal limits, the Central and Big Four are to run over the latter's right of way to a connection of the two roads at Berea, Ohio. A connection is to be made with the Nickel Plate near the western terminal limits. Within the terminal limits, on each approach to the station, there are to be four tracks each for passenger trains of the steam roads and for interurban electrics. Two of these approach tracks for each class of service are to be a part of the initial construction included in the estimates of cost. The plans provide 23 station tracks for the steam roads, of which 10 are to be constructed initially, and a system of station tracks for the interurbans, of which nine are to be included in the initial construction. The tracks are to pass 30 feet below the street level at the Public Square, and the main station floor is to be about 10 feet below. All tracks within the terminal limits are to be operated by electricity and the electrification of the steam-railroad lines is to extend beyond these limits over the trackage to be provided along existing rights of way. The passenger terminal is to be used by the three applicants and by the interurbans now or later entering the city. Provision is made in the contract, however, for the use of the station by other steam roads if they so elect.

In its application the Central seeks authority to join with the Big Four and the Nickel Plate in an agreement with O. P. Van Sweringen to acquire the entire capital stock of the Terminals Company at its par value of \$10,000, 71 shares to go to the Central for \$7,100, 22 to the Big Four for \$2,200, and 7 to the Nickel Plate for \$700. It also seeks authority to join with the two other roads in an agreement with the Terminals Company for the use of the passenger station and approaches; to enter into an agreement with the Nickel Plate for the use of two tracks upon its right of way, in accordance with the plan above set forth; and to enter into an agreement with the Big Four for similar trackage rights upon its right of way. The Big Four and the Nickel Plate seek authority to join with the Central and with each other in the agreements with O. P. Van Sweringen and the Terminals Company.

The agreements whereby the Central proposes to acquire trackage rights from the Big Four and the Nickel Plate do not fall within the jurisdiction conferred by paragraph (18) of section 1 of the interstate commerce act, and authority from us for such grants is unnecessary. Certificates of public convenience and necessity, however, are necessary under paragraph (18) for the operation by applicants of the station and its approaches.

The Terminals Company proposes to finance the construction of the new route and station by the sale of its bonds, which are to be guaranteed by the three applicant railroad companies. The agree-



ment for the use of the Terminals Company's property which they ask us to approve provides for this guaranty, but nevertheless they do not yet seek from us the necessary authority, under section 20a of the interstate commerce act, to assume such liability as guarantors. The president of the Central testified that "we have not reached the financing yet, because it would be folly to try to start out and finance \$60,000,000 to-day, or any material portion of that, under the present money situation", and, again, that "everyone understands that the financial situation at this moment is not such that railroads could go out and finance this under any terms—long terms—that would be at all advisable in the public interest." Later he spoke of the Public Square plan as an "opportunity," and stated that "we have got to arrange with the commission to preempt it now and finance it when we can, for the reason that, if we do not do it now, it may foreclose in the future." The record amply justifies the conclusion that even if we should grant the certificates and the authority which are now sought, there is no immediate intention of beginning the work of construction; and plainly it could not be begun until authority to guarantee the bonds has been secured.

Notwithstanding the applicants propose to acquire all the capital stock of the Terminals Company and to guarantee all its bonds, the agreement for the purchase of the stock contains the unusual provision that the railroads will deliver proxies to O. P. Van Sweringen authorizing him "until completion and tender of a portion of the union passenger terminal to the railroads as aforesaid, to vote the stock of the Cleveland Union Terminals Company at any general or special meeting of the stockholders of said company for the election of directors." Provision is made in the agreement with the Terminals Company that "salaries of officers, large items of general expense, and commitments involving the expenditure of substantial sums of money or the assumption of continuing liability shall be fixed, assumed, or paid by the Terminals Company only after consultation with the Railroads and with their approval." Nevertheless, subject to this proviso, it is proposed to place the control of the Terminals Company entirely in the hands of O. P. Van Sweringen during the construction period, although applicants will own all its stock and provide the financial credit which will make possible the marketing of its bonds.

The portion of the Terminals property which is to be used by the interurban electrics, called the "traction terminal," is to be leased at a rental of \$850,000 per year, according to the plans, to the Cleveland Terminal Traction Company, a company organized and controlled by the Van Sweringens and which as yet owns no property.

The "traction terminal" is to include the so-called "concession area," a space in the terminal of about 200,000 square feet available for use by stores, restaurant, parcel room, and like purposes. All income from this "concession area" is to go to the Traction Company, with the proviso that the latter's rental shall be increased from \$850,000 to \$1,000,000 whenever this annual income shall equal \$800,000. There is also provision for a further possible increase at the end of 21 years.

The rental of \$850,000 approximates 6 per cent of \$14,038,523, the portion of the cost of the new project allocated to the "traction terminal." In this allocation no portion of the cost of the land within the station area has been included, upon the theory that the acquisition of all this land would be necessary under the terms of the ordinance, even if the interurbans were not admitted to the station. It appears, however, that the ordinance was drafted in contemplation of such admission, and that if a steam-railroad terminal alone had been planned the need for much of the highest-priced land would not have arisen.

Within an area of about six acres, including that part of the terminal nearest the Public Square, the right to build above certain specified levels is to become the property of the Cleveland Terminals Building Company, another company organized and controlled by the Van Sweringens. This company expects to build a large and handsome office building over the station, for which plans have been prepared. In exchange for these "air rights," which are to be acquired in the first instance with the land at the cost of the Terminals Company, the latter will receive a perpetual easement in the lands required for the east approach to the station. This easement will be subject to the exercise of "air rights" above necessary clearance levels by the same private interests.

It is claimed by the Central that the present net cost of acquiring this easement would be \$2,954,338 and that the present value of the air rights given in exchange is \$2,209,741. It appears, however, that these estimates are based on wholly arbitrary assumptions. For example, the figure \$2,209,741 is obtained by taking the estimated present value of the land in fee, deducting from this the estimated value of present improvements, and taking half of the remainder as the value of the air rights and half as the value of subsurface rights. The value so found, \$3,399,601, is reduced 35 per cent to cover the loss of 7 per cent simple interest for five years (time lost in awaiting completion of terminal), leaving a present value of \$2,209,741. It is a matter of common knowledge that the air rights above the Grand Central Terminal and the Hudson & Manhattan Terminal in New York City have proven to have a much higher value

than this in comparison with the cost of the land in fee. In the report submitted by the Pennsylvania to the city council when it declined to join in the new project, filed as an exhibit in this proceeding, the following statement appears:

In the downtown section of a city such as Cleveland air rights of this character in all probability will ultimately be worth several millions of dollars. This opinion is held by well informed real estate investors in Cleveland, and is further supported by the results obtained in the development of similar properties in other cities.

Part of the land necessary for the construction of the station has already been acquired by the Van Sweringens, and this they propose to transfer to the Terminals Company at cost plus carrying charges. It was testified that to May 15, 1920, this amount was \$6,044,108 and that the present value of this land is more than this. In a letter dated May 18, 1921, however, counsel for the Central states that the "total allocated cost. plus carry of the parcels acquired is \$5,644,098, as compared with the estimate of present value, of \$5,413,710." He further states that it would cost the Central \$5,955,081 to buy the same properties in the open market at the present time. The cost of the land still to be acquired is estimated at \$11,562,122.

The estimated cost of the entire Public Square project within the terminal limits, including electrification, is estimated by the Central at \$60,565,818. This estimate is based on prices current in the fall of 1920. Testimony was offered to show that prices of labor and materials had declined 15 to 20 per cent since the estimates were made and that some further reduction might reasonably be expected. In addition to the above the applicants will provide individually for the making of certain improvements forming a necessary part of the complete plan but not falling within the terminal limits, the estimated cost of which is \$7,225,000. The Nickel Plate by the provisions of the contract assumes responsibility for the construction of certain improved freight facilities provided for in the ordinance for the joint use of the several steam lines at an estimated cost of \$4,350,000. The total estimated cost of the project upon the 1920 basis is therefore \$72,140,818. The expenditure of this amount, or such lesser amount as would result from falling prices, would still leave the lake-front line subject to the limitations of the single-track drawbridge across the Cuyahoga River and of the grade crossings of the Pennsylvania and the Big Four.

The total cost of the Mall station project, upon the 1920 basis, with steam operation and including the building of two additional tracks on the Cleveland Short Line and other necessary adjuncts, is estimated by the Central at \$42,179,387. If 17 miles only of the Short

Line were four-tracked, omitting the expensive work in connection with the tunnels and the viaduct, the estimate would fall to \$33,619,387. It appears, also, that the estimate includes the substitution for the single-track drawbridge of a four-track bridge at a higher elevation, the elimination of the Pennsylvania grade crossing, and the four-tracking of the Central's line between East Sixty-third Street and East Thirty-third Street.

Notwithstanding the higher cost the Central is strong in the view that the Public Square plan is preferable, principally because of the advantages in the use and development of freight facilities. If this plan is approved it contemplates the routing of its through freight westbound over the lake-front line and eastbound over the Short Line, securing in this way the economy not only of more flexible movement but also of a shorter haul with lower grades for the westbound traffic. It also believes that the elimination of passenger traffic on the lake-front line will open the way for industrial and dock development in that territory which would be impossible under any other plan. The promoters of the Terminals Company lay stress upon the convenience of a railroad passenger terminal at the Public Square, where the principal streets and traction lines of the city converge, with free interchange not only between the steam railroads but with the interurban lines which are expected to use the terminal.

The opponents of the Public Square plan, in addition to emphasizing its great cost, claim that the location of a passenger terminal at that point with the attendant vacation of 48 acres of public ways, will cause street and traction congestion which can be relieved only by the building of terminal subways for the street-car lines at an expense which the community can ill afford to bear. A plan for such subways was recently defeated by popular vote. They also claim that the interurban lines are in such financial condition that they can not assume the obligation of a rental of \$850,000 for the "traction terminal" as is proposed; that most of the interurban passengers now board or leave the cars at points remote from the Public Square; and that the construction of this "traction terminal," the inclusion of the "concession area" within its limits, and the surrender of the "air rights" to private interests, are not compatible with sound railroad finance and economy.

The suitable location of a passenger terminal within a great city is a matter which can best be determined locally rather than by a commission sitting in Washington, and the referendum vote adopting the Public Square ordinance is entitled to great weight in this connection. From what has already been stated, however, it appears that the project for which the people voted is not in all respects the

project which is now under consideration. Moreover, there is evidence of a sharp division in both public and expert opinion. Recently the city council by resolution instructed the director of law to prepare and submit an ordinance repealing the initiated ordinance of 1919, and the president of the council appeared before us in opposition to the applications. At the time of the popular vote, a committee of the chamber of commerce divided three for to two against the Public Square plan, and in a report made to the chamber at the time, Bion J. Arnold, a consulting engineer of Chicago of national reputation, expressed tentative views opposed to this plan and in favor of the location on the Mall. Subsequently similar views were expressed in the elaborate report submitted by the Pennsylvania Railroad. The latter, however, has an obvious interest in the preservation of its Euclid Avenue station, which would necessarily be abandoned if it joined in the Public Square plan. Both Arnold and the Pennsylvania lay stress upon the advantages of a policy of "decentralization" in city development as opposed to intensive concentration in central areas. They also point to the possible advantages of joint use for through freight movement of the comparatively low-grade line of the Nickel Plate through Cleveland, a line which is not now used to capacity and has many possibilities of expansion. Such joint use would be in harmony with the spirit of the transportation act, 1920.

Apart from these doubts as to the wisdom, from a local point of view, of the location of the new passenger terminal in the Public Square, there are other matters in connection with the plan which justify hesitation in granting the applications now before us. It has not been shown with any degree of certainty that the inter-urban lines can afford to use the "traction terminal" which at great expense is to be provided for them. Apparently the only hope that they will be able to do so lies in the possible value of the "concession area" which is to be made a part of their "terminal," although whatever value it proves to have will be derived in large part from the presence in the station of the steam-railroad lines. Nor are we persuaded that the reservation of "air rights" in the hands of private interests is in accordance with sound public policy. The following testimony by the president of the Central is significant in this connection:

Q. There is this distinction between your New York development at Forty-second Street and the development in Cleveland, that in New York you reserved all the air rights?

A. Yes; we reserved all the air rights.

Q. And the great success you have made of that terminal station there is because you did reserve the air rights, very largely?



A. Well, yes. We bought all of the land there, too, primarily, and paid for it.

Q. I know.

A. (Continuing.) And took the risk of it; and here we have not gone that far. Now, I imagine that, if we could see our way clear to invest the money, we can take this land now or could have—probably we can even now—buy this land at its now value and reserve the air rights and put up these buildings, if we want to enter into that sort of thing.

Undoubtedly the present value of the "air rights" would be largely increased by the construction of the underground terminal without materially interfering with the availability of the land for building purposes or increasing the cost of such construction.

We are further impressed by the fact that two of the most important limiting factors in the use of the lake-front line at the present time appear to be the single-track drawbridge over the Cuyahoga River and the grade crossing of the Pennsylvania near the station, obstacles which would be removed under the Mall site plan and which could be removed regardless of the location of the passenger station.

Summing the matter up, we are not persuaded by the evidence now before us that the terminal problem has received adequate consideration in the Public Square plan, either from the local or the railroad point of view; that this plan is compatible with the public interest, in its present form; or that we ought, by granting the certificates of public convenience and necessity which are sought, to lend our sanction to the enormous expenditure of capital which the plan involves. Possibly the presentation of further evidence or the modification of the plan in various particulars might make possible a different conclusion, but it is the conclusion which we are constrained to reach upon the record now before us. It should further be said that dismissal of the pending applications need not involve delay in terminal improvement at Cleveland, for the record makes it clear that the railroads feel that they are so situated financially at the present time that the immediate development of a plan of the scope proposed would not be practicable.

An order dismissing the applications will be entered.

POTTER, *Commissioner*, dissenting:

I can not concur in the conclusion of the majority report to deny the certificate of public convenience and necessity asked for. It is clear that public convenience and necessity require a new passenger station and relief from existing congestion which interferes with the prompt handling of freight. The plan involving a new passenger station on the Public Square seems to be justified and I think it preferable to the site on the Mall. In any event it does not appear to me that we are justified on the record in overriding the judgment

of the carriers on this important question of company policy, particularly in view of the strong support which the plan has in the city of Cleveland. While the expenditure involved in the proposed improvement is large, I can not see that the public interest forbids it. It seems to me that the city of Cleveland, the traveling public, and shippers who will use the improved facilities are entitled to have the improvement made, even though the new investment increases the burden on the public generally. It seems to me also that we are not warranted in asserting that our opinion upon the business questions involved in working out the scheme is sounder than the opinion of the representatives of the carriers, who are more familiar with the situation and better understand its needs, and who carry the responsibility.

### ORDER.

Investigation of the matters involved in this proceeding having been had, after due hearing, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That this proceeding be, and it is hereby, dismissed.

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## FINANCE DOCKET No. 1447.

## IN THE MATTER OF THE APPLICATION OF THE BULLFROG GOLDFIELD RAILROAD COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted July 19, 1921. Decided August 18, 1921.*

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Authority granted to deliver to W. A. Clark (a) not exceeding \$143,000 of new first-mortgage 5 per cent bonds in exchange, par for par, for a like aggregate amount of first-mortgage 6 per cent bonds and second-mortgage income bonds now outstanding, and (b) not exceeding \$5,000 of new first-mortgage 5 per cent bonds, at par, in partial satisfaction of unpaid interest accrued on outstanding first-mortgage bonds.

*Frank Oster* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Bullfrog Goldfield Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$148,000 of new first-mortgage 5 per cent bonds, as follows: \$75,000, in exchange for a like amount of its outstanding first-mortgage 6 per cent bonds; \$68,000, in exchange for a like amount of its outstanding second-mortgage bonds; and \$5,000, in partial satisfaction of unpaid interest accrued on the first-mortgage bonds now outstanding. No objection has been made to the granting of the authority for which application is made.

The applicant, a Nevada corporation, owns and operates a line of railroad approximately 79 miles in length extending from Goldfield to Beatty, Nev. At Goldfield it connects with the Tonopah & Goldfield Railroad, which runs in a northerly direction to a connection with the Southern Pacific Company at Mina, Nev. At Beatty the applicant connects with the Tonopah & Tidewater Railroad, which in turn runs in a southerly direction to connections at Crucero and Ludlow, Calif., with the Los Angeles & Salt Lake Railroad, and the Atchison, Topeka & Santa Fe Railway, respectively.

Under date of December 31, 1906, the applicant executed its first mortgage to the Fidelity Trust Company of Philadelphia, authorizing the issue of \$1,500,000 of 6 per cent bonds maturing January 1, 1922, of which \$75,000 are outstanding. Under date of July 15, 1914,

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a second mortgage was executed to the same trustee authorizing the issue of \$68,000 of 6 per cent cumulative income bonds, maturing July 15, 1924. All of these bonds have been issued and are outstanding.

As the result of a reorganization in 1914 the applicant's authorized capital stock was fixed at \$1,640,000, of which \$1,628,462.50 is outstanding. Its annual report for 1920 shows investment in road and equipment of \$1,619,987. Our tentative valuation of the property as of June 30, 1915, shows the value to be \$1,463,276, while the book value as of that date is shown as \$1,937,125. These figures included a branch from Beatty to Rhyolite, 5.83 miles, which has since been abandoned. The annual report shows a net railway operating deficit of \$7,886 and a profit-and-loss debit balance of \$365,172. The operating ratio is shown as 128.96 per cent.

It appears that during the latter part of 1919 Messrs. Althause and La Grange purchased a majority of the applicant's stock, and in the spring of 1920 announced that they proposed to scrap the road, pay off the bonds, and divide the remainder of the proceeds among the stockholders. Opposition to this plan developed not only because of the fact that service would be withdrawn from the section traversed by the applicant's line but because discontinuance of operation would leave each of its connections, the Tonopah & Tidewater and the Tonopah & Goldfield, with trunk-line outlets in only one direction. With the applicant's line in operation, the Tonopah & Goldfield has an outlet to the south when its northern connection is blocked by snow, and the Tonopah & Tidewater has an outlet to the north when its southern connections are blocked because of washouts or other causes. It finally was agreed that the Tonopah & Tidewater Railroad Company would purchase the stock held by Althause and La Grange at the price paid by them plus 6 per cent interest for the period during which they held the stock, provided satisfactory arrangements could be made with W. A. Clark, of Montana, the holder of the outstanding bonds. On October 1, 1920, accrued interest on the first-mortgage bonds amounted to \$5,625, and unpaid interest on the second-mortgage income bonds had accumulated in the sum of \$25,300. Clark agreed to waive the payment of interest on the second-mortgage bonds provided a new first mortgage be executed authorizing the issue of \$148,000 of 5 per cent bonds and these bonds be delivered to him for the following purposes:

In exchange for first-mortgage bonds.....	\$75,000
In exchange for second-mortgage bonds.....	68,000
In part payment of accrued interest on first-mortgage bonds .....	5,000
<b>Total .....</b>	<b>148,000</b>

In pursuance of this agreement the applicant proposes to make a new first mortgage under date of October 1, 1920, to the Mechanics Trust Company of New Jersey, authorizing the issue of \$148,000 of 5 per cent bonds, maturing October 1, 1928, and to deliver these bonds to Clark in exchange for the old bonds, which will be canceled and the mortgages securing them discharged, and in partial satisfaction of the interest accrued on the first-mortgage bonds. The balance of the interest, \$625, is to be paid in cash.

It is represented that this is the best arrangement that can be made, and that unless it becomes effective it is probable that a receiver for the applicant will be appointed, with possible suspension of service. The Tonopah & Tidewater Railroad Company states that it will be satisfied to operate the property if it can earn operating expenses and fixed charges, and this is believed to be possible because of the through traffic from the north and from the south and the fact that the country traversed is now being developed. Large deposits of commercial clay and talc have been opened and afford considerable traffic. It has been demonstrated that the country is suitable for agriculture, and land recently has been opened for settlement under conditions which will insure its development for agricultural purposes in the near future. In addition to the cancellation of the interest accumulated on the outstanding second-mortgage bonds, the proposed plan will result in a net decrease in interest charges of \$1,180 per annum.

We find that the proposed issue of bonds by the applicant (*a*) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by the applicant of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Bullfrog Goldfield Railroad Company be, and it is hereby, authorized to deliver to W. A. Clark, of Montana, (*a*) not exceeding \$143,000, principal amount, of new first-mortgage bonds in exchange, par for par, for \$75,000, principal amount, of the first-mortgage 6 per cent bonds issued under and pursuant to,

and secured by, the first mortgage dated December 31, 1906, made by the applicant to the Fidelity Trust Company of Philadelphia, and \$68,000, principal amount, of second-mortgage income bonds issued under and pursuant to and secured by the second mortgage dated July 15, 1914, made by the applicant to the Fidelity Trust Company of Philadelphia, and (b) not exceeding \$5,000, principal amount, of new first-mortgage bonds, at par, in partial satisfaction of unpaid interest on said outstanding first-mortgage bonds accrued to October 1, 1920, the balance of such interest, amounting to \$625, to be paid by the applicant in cash; said bonds to be issued under and pursuant to, and to be secured by, a proposed new first mortgage, in the form submitted with the application, to be made by the applicant to the Mechanics Trust Company of New Jersey, under date of October 1, 1920, to bear interest at the rate of 5 per cent per annum, payable semiannually on April 1 and October 1 in each year, and to mature October 1, 1928; as and when said first-mortgage 6 per cent bonds and second-mortgage income bonds are received in exchange for the bonds herein authorized to be issued, said bonds to be canceled: *Provided, however,* That all interest accumulated upon said second-mortgage income bonds shall be canceled and all right thereto and claim therefor released prior to the issue of any bonds pursuant to the authority herein contained.

*It is further ordered,* That within 10 days after the execution and delivery of said proposed new first mortgage, the applicant shall file with this commission an authenticated copy thereof in the form in which said mortgage was executed.

*It is further ordered,* That, except as herein authorized to be delivered, said new first-mortgage 5 per cent bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until otherwise ordered by this commission.

*It is further ordered,* That the applicant shall report to this commission, within 10 days thereafter, respectively, all pertinent facts relating to (1) the cancellation of interest accumulated on said second-mortgage income bonds, (2) the delivery of new first-mortgage 5 per cent bonds as herein authorized, (3) the cancellation of said first-mortgage 6 per cent bonds and said second-mortgage income bonds received in exchange therefor, and (4) the release of said first mortgage dated December 31, 1906, and said second mortgage dated July 15, 1914; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of said bonds, or interest thereon.

## FINANCE DOCKET No. 1469.

## IN THE MATTER OF THE APPLICATION OF THE GULF PORTS TERMINAL RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted August 8, 1921. Decided August 18, 1921.*

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Public convenience and necessity not shown to require the construction of an extension of the Gulf Ports Terminal Railway in Alabama. Application denied.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Gulf Ports Terminal Railway Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, on June 6, 1921, filed an application for a certificate that the present and future public convenience and necessity require or will require the construction of an extension of its line from the present terminus in Baldwin County, Ala., to the city of Mobile, Ala. No representations were made regarding the application by the authorities of Alabama. The case was submitted without formal hearing. In our investigation of the application we have referred to the record in the matter of the application of the Gulf Ports Terminal Railway Company for a loan under section 210 of the transportation act, 1920, as amended, Finance Docket No. 45, *Application of Gulf Ports Terminal Ry.*, 65 I. C. C., 421.

The proposed extension would be approximately 25 miles long, including a trestle 7 miles in length, and would end at Blakely Island, where a connection would be made with certain tracks of the Government coaling station. Car floats or barges would be used to transport cars across the channel of Mobile Bay to the municipal docks. The line extending from Pensacola, Fla., to its present terminus in Baldwin County, Ala., has been operated as a railway since about 1913. The proposed extension would complete this line so that its eastern terminus would be Pensacola and its western terminus Mobile, a total distance of approximately 60 miles, making a route approximately 44 miles shorter than the existing rail line between the two cities.

The applicant is authorized by its charter to issue capital stock in the amount of \$1,000,000, of which it has actually issued only

\$10,000. Its equipment consists of 2 switch engines, 3 light road engines, which are not in operating condition, 70 flat cars, 6 other freight cars, and a few cabooses. It estimates that other necessary equipment would cost about \$12,500. Operation of the line heretofore constructed has been conducted by the contractor because of the fact that construction had not been completed in accordance with the specifications of a verbal contract. At the hearing on the application for a loan it was testified that, owing to the increased cost of labor and materials and the suspension of export tonnage on lumber and forest products during the war, the funds available have been insufficient to maintain the property in a condition of usefulness, and that unless needed repairs could be made promptly operation of the line could not be continued. Freight traffic in the past has consisted chiefly of lumber and other forest products. Most of the timber in the territory served by the existing line has been cut, so that this traffic is constantly diminishing. Along the proposed extension from the present terminus to Mobile Bay there is a considerable amount of timber which the applicant expects to handle, although it concedes that the revenue to be derived from this source would not be sufficient to sustain the line. Some development in agriculture has taken place, but carriage of agricultural products is not relied upon to afford any considerable revenue.

The principal purpose of the proposed extension is to afford a shorter route between Pensacola and Mobile, which the applicant urges would be of particular advantage not only to local interests but in the movement of through traffic. The applicant estimates that it would receive 3,050 cars per year from the industries of Pensacola alone. Nearly all of such industries, however, are located on the Louisville & Nashville Railroad. As an economic justification of the proposed line the applicant relies upon the fact that the route between Pensacola and Mobile thus formed would be 44 miles shorter than the present route over the Louisville & Nashville Railroad, and it assumes that it will receive 50 per cent of the traffic moving between the two cities. On that assumption it asserts that the line would handle 50 cars per day of interline traffic at Mobile, 10 cars per day of local traffic to and from that city, and 10 cars per day from the Warrior River Barge Line. The net railway operating income for the entire property after completion of the extension is estimated by the applicant at \$150,000 for the first year and \$300,000 for the fifth year, including revenues of \$200 per day for passenger, mail, and express business.

The cost of the proposed extension is estimated by the applicant at \$650,000, including \$350,000 for the trestle on Mobile Bay. These

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figures vary widely from those of engineers of the United States Railroad Administration, who, in 1918, estimated that the extension of the line from its present terminus to Blakely would cost \$515,000, and that the 7 miles of trestle work would cost \$547,000 if untreated lumber, and \$742,000 if creosoted lumber, were used.\* Such estimates included no outlay for terminal facilities. The engineers pointed out further that the operation of the proposed trestle would be attended by great hazard because of the frequent storms that sweep across the region from the Gulf of Mexico; they conceded, however, that it might be possible to maintain fairly regular operation over the trestle.

The applicant proposes to finance the construction of the 18 miles of track by the sale of bonds, and, pending construction of the trestle, it would use car floats between Blakely and Mobile. The trestle, it is stated, would be built out of the net income from operation. The applicant attaches considerable importance to the volume of business which it expects to obtain from the Warrior River barge traffic.

It is evident that the financial success of the proposed line would depend chiefly upon the applicant's ability to secure a considerable volume of traffic moving between Pensacola and Mobile. The applicant's plans indicate a line of light construction, heavy grades, and inadequate terminals. Any through business which it might obtain would obviously constitute a diversion of traffic from existing transportation facilities. When it is considered that freight rates to Mobile and Pensacola are controlled by water competition, and that freight shipments from most centers of industry and commerce take the same rate to both points, it becomes evident that there can be no substantial advantage to shippers from the use of the proposed line, and that the shortening of the rail distance between Pensacola and Mobile can not be expected to influence the movement of traffic to any marked degree.

Upon the facts presented we are unable to find that public convenience and necessity require or will require the construction of the extension as proposed. An order will be entered denying the application.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That the application herein be, and it is hereby, denied.



## FINANCE DOCKET No. 954.

IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS AND IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

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*Submitted July 23, 1921. Decided August 19, 1921.*

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Application granted and loan of \$1,733,750 approved. Previous reports, 65 I. C. C., 134 and 317.

*Geo. F. Brownell* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Erie Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 28, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, to aid the applicant in providing itself with new and reconstructed equipment and other additions and betterments and in meeting its maturing indebtedness.

On August 25 and October 22, 1920, we issued our reports and certificates Nos. 19 and 37, 65 I. C. C., 134, 317, to the Secretary of the Treasury pursuant to the said application, as amended and supplemented, approving loans to the applicant, respectively as follows:

For maturing indebtedness .....	\$8, 000, 000
For additions and betterments to equipment and to way and structures .....	1, 840, 700
Total .....	9, 840, 700

On February 26, April 15, June 22, and July 23, 1921, the applicant further amended its application requesting an additional loan, and in said amendments the applicant set forth:

1. That the amount of the additional loan desired is \$1,733,750.
2. That the purposes of the additional loan and the uses to which it will be applied are:

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Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
Additional cost of providing and repairing trucks used under 2,000 reconstructed freight cars.....	\$457,155.28	.....	.....
Safety-appliance equipment on rolling stock.....	17,400.00	.....	.....
Equipping 2 locomotives (class R) with boosters and Nicholson syphon system.....	26,467.74	.....	.....
Adaptation of 45 locomotives built for Russian Government and purchased from the United States.....	337,500.00	.....	.....
Rebuilding and modernizing 3 Mallet engines.....	89,486.21	.....	.....
Renewal of drawbridge 8.4, known as Passaic River drawbridge, at Newark, N. J.....	603,275.00	.....	.....
New turntable at Susquehanna, Pa.....	9,913.00	.....	.....
Electric lights at Penn Horn, N. J.....	1,515.82	.....	.....
Additions and betterments charge on track program for 1921:			
Rail, \$408,577.....	1,366,062.00	.....	.....
Tie plates, \$300,000.....			
Other track material, \$207,485.....			
Ballast, \$450,000.....			
Shed for firing up and making final repairs to engines at shops at Hornell, N. Y.....	8,257.29	.....	.....
Shed over receiving hopper for coaling station at Hornell, N. Y.....	5,712.11	.....	.....
Double-unit Robertson cinder conveyor at west cinder pit at Marion, Ohio.....	8,491.20	.....	.....
Relocation and improvement of coal-crusher plant at Marion, Ohio..	9,854.01	.....	.....
Shed over receiving hopper of coaling station at Salamanca, N. Y...	6,207.91	.....	.....
Two additional draft-sill tie-plates on 5,951 cars.....	22,316.25	.....	.....
Revision of lead in yard A and additional crossovers at Marion, Ohio.	2,637.33	.....	.....
Constructing sidetrack connection to Batavia Car Works.....	12,453.97	.....	.....
Total.....	2,984,705.12	\$1,250,955.12	\$1,733,750.00

3. That the security offered is applicant's refunding and improvement mortgage bonds, at the ratio of \$160 of bonds for each \$100 of loan.

After investigation, we find that the making of the requested loan for the purposes and in the amounts hereinabove set forth is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

As a consideration for the making of the loan, the applicant has agreed to finance a substantial part of the total estimated cost of the additions and betterments. The certificate will provide that the loan, together with substantially the entire amount to be financed by the applicant, shall have been expended or definitely obligated for said purpose, in default of which the entire loan shall be repaid to the United States on or before July 1, 1922.

An appropriate certificate will be issued.

*Certificate No. 106 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$1,733,750 by the United States to the Erie Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in providing itself with additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$1,733,750.

4. That the time from the making thereof within which the loan is to be repaid in full is 10 years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$2,774,000, principal amount, of applicant's refunding and improvement mortgage 20-year series-A 6 per cent gold bonds, due 1937, issued under an indenture of mortgage, dated December 1, 1916, executed by the applicant to the Bankers Trust Company, of New York, as trustee, as amended by supplement thereto, dated April 1, 1918. Said bonds are in temporary form, without coupons, exchangeable for definitive coupon bonds of the same series and aggregate principal amount, substantially identical in tenor and of authorized denominations, when prepared. Said temporary bonds are in denominations, principal amounts, and are numbered as hereinbelow set forth:

Bonds.	Number.	Denomination.	Amount.
No. T-29.....	1	\$1,000,000	\$1,000,000
Nos. T-27 and T-35.....	2	250,000	500,000
No. T-46.....	1	155,000	155,000
Nos. T-3, T-13 to T-22, inclusive.....	11	100,000	1,100,000
No. T-67.....	1	8,000	8,000
No. T-63.....	1	7,000	7,000
No. T-58.....	1	3,000	3,000
No. T-64.....	1	1,000	1,000
Total.....			2,774,000

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the

income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(e) The applicant has agreed in an instrument in writing, dated the 27th day of August, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed  $7\frac{1}{2}$  per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan, together with substantially the entire amount to be financed by the applicant, shall have been expended or definitely obligated for purposes for which the loan is made, or the entire loan shall be repaid to the United States, on or before July 1, 1922. In event the commission shall certify to the Secretary of the

Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 30th day of August, 1921.

70 I. C. C.

## FINANCE DOCKET No. 985.

IN THE MATTER OF THE APPLICATION OF THE MAINE  
CENTRAL RAILROAD COMPANY FOR A LOAN TO PRO-  
VIDE EQUIPMENT AND OTHER ADDITIONS AND  
BETTERMENTS.

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*Submitted July 9, 1921. Decided August 20, 1921.*

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Upon supplemental application, additional loan of \$400,000 approved. Previous report, 65 I. C. C., 203.

*Morris McDonald* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Maine Central Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 27, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, to aid in the acquisition of equipment and other additions and betterments, and on June 26 and August 9, 1920, amended and supplemented the application.

On September 25, 1920, pursuant to the application, we issued our report, 65 I. C. C., 203, approving a loan to the applicant of \$653,000, being substantially 50 per cent of the total estimated cost of certain items of equipment and other additions and betterments therein more specifically set forth, and October 9, 1920, we issued to the Secretary of the Treasury our certificate No. 29, 65 I. C. C., 205, in respect of said loan.

One of the conditions of this loan was that the applicant itself should finance the remaining 50 per cent of the estimated cost of said equipment and additions and betterments, at a net cost to it of not to exceed 7 per cent per annum.

The applicant, by formal request dated July 9, 1921, represents to us that it has expended or obligated itself to expend from its working fund more than \$500,000 in connection with the loan; that, due to the fact that the operation of its property since the loan was approved by us has resulted in a deficit, it has been obliged to make temporary loans to meet its most pressing requirements; and that it is not now in such financial condition that it can procure a loan from bankers or from any other source, using its bonds as security, at a

70 I. C. C.

reasonable rate of interest or within the limit set by our certificate No. 29, as aforesaid.

The applicant therefore requests us to certify to the Secretary of the Treasury our approval of an additional loan of \$400,000 to apply in part toward the purposes for which the loan covered by our certificate No. 29 was made, as follows:

Eight locomotives-----	\$170,000
Miscellaneous equipment-----	50,000
Rebuilding 110 rack cars-----	110,000
Nichols River bridge-----	30,000
Miscellaneous items of additions and betterments---	40,000
Total -----	400,000

After investigation, we find that the making of the requested additional loan by the United States for the purposes and in the amount above stated is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant and character and value of the security offered afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

COMMISSIONER DANIELS dissents.

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*Certificate No. 111 for a Loan under Section 210 of the Transportation Act, 1920, as amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$400,000 by the United States to the Maine Central Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in providing itself with equipment and other additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$400,000.



4. That the time from the making thereof within which the loan is to be repaid in full is 10 years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$500,000, principal amount, of applicant's first and refunding mortgage 20-year series-D 6 per cent gold bonds, due 1935, issued under an indenture of mortgage dated December 1, 1915, executed and delivered by the applicant to the Union Safe Deposit & Trust Company, of Portland, Me., as trustee. Said bonds are in definitive coupon form having coupon due December 1, 1921, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered 18518 to 19017, inclusive.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(e) The applicant has agreed in an instrument in writing, dated the 26th day of August, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 7 per cent per annum, in-

cluding in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan for additions and betterments, together with the entire amount to be financed by the applicant for additions and betterments, shall have been expended or definitely obligated for said purposes, or the entire loan for additions and betterments shall be repaid to the United States, on or before July 1, 1922. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States; and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 29th day of August, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1476.

IN THE MATTER OF THE APPLICATION OF THE WATER-  
LOO, CEDAR FALLS & NORTHERN RAILWAY COMPANY  
FOR AUTHORITY TO PLEDGE BONDS, SELL STOCK,  
AND DELIVER LEASE WARRANTS.

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*Submitted June 13, 1921. Decided August 20, 1921.*

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Authority granted (1) to pledge to the United States \$2,200,000 of general-mortgage 7 per cent gold bonds; (2) to sell at par \$700,000 of common stock; and (3) to deliver lease warrants in the aggregate amount of \$132,159.44, in connection with the procurement of equipment.

*C. D. Pickett* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Waterloo, Cedar Falls & Northern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to issue \$2,200,000 of its general-mortgage 7 per cent gold bonds for pledge with the United States, \$1,575,000 as collateral security for a loan under section 210 of the transportation act, 1920, as amended, and \$625,000 as collateral security for a loan from the United States Railroad Administration; (2) to issue and sell at par for cash \$700,000 of its common stock; and (3) to issue lease warrants or notes in the aggregate amount of \$132,159.44, in connection with the procurement of equipment. Due notice of the filing of the application has been given and no objection to the granting thereof has been made.

By our certificate No. 80, in *Loan to Waterloo, Cedar Falls & Northern Ry.*, 67 I. C. C., 325, we authorized a loan to the applicant from the United States in the sum of \$1,260,000, for which \$1,575,000 of its general-mortgage 7 per cent gold bonds are to be pledged with the Secretary of the Treasury as collateral security. The applicant is also required to pledge \$625,000 of similar bonds to the United States for a loan obtained from the United States Railroad Administration. These bonds are to be secured by the applicant's general mortgage dated May 1, 1920, made to the First Trust & Savings

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Bank and Melvin A. Traylor, trustees. They will bear interest at the rate of 7 per cent per annum and will mature May 1, 1950.

Of the \$700,000 of stock proposed to be issued we required by certificate No. 80 that \$207,000 thereof be issued and sold at par to meet current liabilities. The proceeds of the entire stock issue are to be used as follows:

For funding maturities.....	\$547, 125. 86
For cash payments on new suburban passenger cars.....	37, 000. 00
For paying open accounts.....	18, 674. 14
To be held in the treasury for capital expenditures, maturing interest, and other proper purposes.....	97, 200. 00
Total.....	700, 000. 00

The traffic requirements of the applicant are such that additional equipment is necessary to enable it to render adequate service to the public. The applicant has, therefore, entered into an agreement with the American Car Company, under date of April 25, 1921, for the lease of 20 double-end safety motor cars. As rental therefor the applicant is to pay \$37,000 in cash, proportionately at the time of shipment of each car or lot of cars, and will execute and deliver to the American Car Company 60 lease warrants, dated as of the average date of shipment of the cars and payable to the order of the applicant, and indorsed by it, in the aggregate amount of \$132,159.44. These lease warrants will mature after date at intervals of one month, and interest at the rate of 7½ per cent per annum, accrued to the date of its maturity, will be included in the face amount of each warrant. The warrants will not bear interest other than included in the face amounts thereof. The amounts in which the warrants respectively mature are as follows:

Warrant.	Amount.	Warrant.	Amount.	Warrant.	Amount.	Warrant.	Amount.
No. 1.....	\$2, 543. 75	No. 16.....	\$2, 370. 31	No. 31.....	\$2, 196. 88	No. 46.....	\$2, 032. 44
No. 2.....	2, 532. 19	No. 17.....	2, 358. 75	No. 32.....	2, 185. 81	No. 47.....	2, 011. 88
No. 3.....	2, 520. 63	No. 18.....	2, 347. 19	No. 33.....	2, 173. 75	No. 48.....	2, 000. 31
No. 4.....	2, 509. 06	No. 19.....	2, 335. 63	No. 34.....	2, 162. 19	No. 49.....	1, 988. 75
No. 5.....	2, 497. 50	No. 20.....	2, 324. 06	No. 35.....	2, 150. 63	No. 50.....	1, 977. 19
No. 6.....	2, 485. 94	No. 21.....	2, 312. 50	No. 36.....	2, 139. 06	No. 51.....	1, 965. 63
No. 7.....	2, 474. 38	No. 22.....	2, 300. 94	No. 37.....	2, 127. 50	No. 52.....	1, 954. 06
No. 8.....	2, 462. 81	No. 23.....	2, 289. 38	No. 38.....	2, 115. 94	No. 53.....	1, 942. 50
No. 9.....	2, 451. 25	No. 24.....	2, 277. 81	No. 39.....	2, 104. 38	No. 54.....	1, 930. 94
No. 10.....	2, 439. 69	No. 25.....	2, 266. 25	No. 40.....	2, 092. 81	No. 55.....	1, 919. 38
No. 11.....	2, 428. 13	No. 26.....	2, 254. 68	No. 41.....	2, 081. 25	No. 56.....	1, 907. 81
No. 12.....	2, 481. 56	No. 27.....	2, 243. 13	No. 42.....	2, 069. 69	No. 57.....	1, 896. 25
No. 13.....	2, 405. 00	No. 28.....	2, 231. 56	No. 43.....	2, 058. 13	No. 58.....	1, 884. 69
No. 14.....	2, 393. 44	No. 29.....	2, 220. 00	No. 44.....	2, 046. 56	No. 59.....	1, 873. 13
No. 15.....	2, 381. 88	No. 30.....	2, 208. 44	No. 45.....	2, 035. 00	No. 60.....	1, 861. 56

When all the payments specified in the agreement shall have been made and all other terms and conditions binding upon the applicant shall have been fulfilled, the equipment will, without further conveyance or transfer, become the absolute property of the applicant.

We find that the proposed issues of bonds, stock, and lease warrants by the applicant (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Waterloo, Cedar Falls & Northern Railway Company be, and it is hereby, authorized to pledge to the United States \$2,200,000 of general-mortgage gold bonds, to be secured by its general mortgage dated May 1, 1921, to the First Trust & Savings Bank and Melvin A. Traylor, trustees; said bonds to bear interest at the rate of 7 per cent per annum, payable semiannually on May 1 and November 1 in each year, and to mature May 1, 1950; \$1,575,000 of said bonds to be pledged as collateral security for a loan under section 210 of the transportation act, 1920, as amended; and \$625,000 of said bonds to be pledged as collateral security for a loan from the United States Railroad Administration, as set forth in the application.

*It is further ordered*, That the Waterloo, Cedar Falls & Northern Railway Company be, and it is hereby, authorized to sell for cash, at par, 7,000 shares of its common stock of the par value of \$100 each; such shares to be represented by certificates in the form set forth in the application; \$207,000 of the proceeds of the sale thereof to be used as provided in our certificate No. 80, in Finance Docket No. 1044, and the remainder to be used for the purposes set forth in said application.

*It is further ordered*, That the Waterloo, Cedar Falls & Northern Railway Company be, and it is hereby, authorized to deliver to the American Car Company, 60 lease warrants or notes in the aggregate face amount of \$132,159.44, maturing in numerical order at intervals of one month and bearing no interest other than included in the face amounts thereof, as more particularly described in said report; said lease warrants to be payable to and indorsed by the applicant and delivered to said car company in pursuance of an agreement dated

April 25, 1921, providing for the lease of certain equipment to the applicant, as set forth in its application and in said report.

*It is further ordered*, That said bonds, stock, and lease warrants shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, or the proceeds thereof be used, for any purpose or in any manner, except as herein authorized, unless and until so ordered by this commission.

*It is further ordered*, That for the period ending December 31, 1921, and for each six months' period thereafter, within 10 days after the end of such period, the applicant shall report to this commission in writing all pertinent facts relating to (1) the pledge, and release from pledge, of said bonds; (2) the sale of said stock and the application of the proceeds of such sale; and (3) the execution and delivery of said lease warrants, and the payment and cancellation thereof; said reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, stock, or lease warrants, or interest or dividends thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1495.

## IN THE MATTER OF THE APPLICATION OF THE BOSTON &amp; MAINE RAILROAD FOR A LOAN FROM THE UNITED STATES TO MEET MATURING INDEBTEDNESS.

*Submitted July 30, 1921. Decided August 20, 1921.*

Application granted and loan of \$3,049,000 approved.

*James H. Hustis* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

By Division 4:

The Boston & Maine Railroad, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on June 22, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to enable the applicant to meet its maturing indebtedness.

In the application the applicant sets forth:

1. That the amount of the loan desired is \$3,049,000.
2. That the term for which the loan is desired is 15 years.
3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Amount.	Loan from United States.
<b>Maturing indebtedness:</b>		
October 1, 1921, Fitchburg Railroad 3½ per cent bonds.....	\$1,775,000	\$1,775,000
November 1, 1921, Boston & Maine Railroad 3½ per cent bonds.....	1,000,000	1,000,000
January 1, 1922, Manchester & Lawrence Railroad 4 per cent bonds.....	274,000	274,000
Total.....	3,049,000	3,049,000

4. Its present and prospective ability to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is applicant's general-mortgage bond in a principal amount equal to the amount of the loan.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to preserve



its credit and thus enable it properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation, we find that the making of the requested loan by the United States, for the purposes and in the amounts hereinabove set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

COMMISSIONER DANIELS dissents.

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*Certificate No. 110 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$3,049,000 by the United States to Boston & Maine Railroad, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet its maturing indebtedness, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$3,049,000.

4. That the time within which the loan is to be repaid in full is 10 years from October 1, 1921.

5. That the terms and conditions of the loan, including the security to be given for repayment, are: The loan shall be secured by applicant's general-mortgage series-J 6 per cent gold bond, due October 1, 1931, issued under an indenture of mortgage dated December 1, 1919, executed and delivered by the applicant to Old Colony Trust Company of Boston, Mass., and S. Parkman Shaw, jr., as trustees. Said bond, which may be registered in the name of the Secretary of the Treasury and received by him as a direct obligation for the loan, is in temporary form, exchangeable for definitive bonds of the same series, aggregate principal amount and otherwise as said temporary bond, in the manner and subject to the provisions of the aforesaid indenture of mortgage. Said bond is numbered 1 and is of a principal amount equivalent to the amount of the loan.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnish, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 24th day of August, 1921.

70 I. C. C.

FINANCE DOCKET No. 1506.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted August 15, 1921. Decided August 20, 1921.*

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Certificate issued authorizing the abandonment of a branch line of railroad in  
Kay County, Okla.

*Lee F. English* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Atchison, Topeka & Santa Fe Railway Company, a carrier by railroad subject to the interstate commerce act, filed on June 28, 1921, an application for a certificate that the present and future public convenience and necessity permit the abandonment of a portion of its line of railroad and the operation thereof, known as the Burnett branch, located entirely in Kay County, Okla. No representations were made by the State authorities of Oklahoma. The case was submitted without formal hearing.

The line of railroad proposed to be abandoned is approximately 4.67 miles in length and extends in a general northeasterly direction from Sumpter, a station on the Hunnewell branch of applicant's system, to Burnett. It was constructed in 1917 to afford freight service to the Blackwell oil field, then in operation near Burnett. The cost of construction, as given by applicant, was \$89,100.27.

The peak of development in the Blackwell oil field evidently was reached in 1916. Since that time production from the wells has diminished almost to the vanishing point. Traffic over the line substantially disappeared early in 1920 and service was discontinued on October 15, 1920.

At no time during the period of operation was there sufficient business to warrant regular freight or passenger service; and the service provided was conducted at a material net loss to the applicant, its balance sheet showing that the net deficit for the four years of operation was \$6,161.18. The hamlet of Burnett is now deserted and the territory traversed by the branch line, having a population of only 30, has convenient access to applicant's main line and to the St. Louis-San Francisco Railway.

As there is no present need for the operation of the aforesaid branch line, and none is likely to develop in the future, we find that the present and future public convenience and necessity permit it to be abandoned. A certificate to that effect accordingly will be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Atchison, Topeka & Santa Fe Railway Company of its Burnett branch, located in Kay County, Okla., described in the application and report aforesaid.

*It is ordered,* That the said Atchison, Topeka & Santa Fe Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Atchison, Topeka & Santa Fe Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall, in such schedules, make specific reference to this certificate by title, date, and docket number.

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FINANCE DOCKET No. 1545.

IN THE MATTER OF THE APPLICATION OF THE NORFOLK & PORTSMOUTH BELT LINE RAILROAD COMPANY FOR AUTHORITY TO ISSUE NOTES.

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*Submitted August 4, 1921. Decided August 20, 1921.*

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Authority granted (1) to issue a 90-day 6 per cent promissory note for \$35,000, payable to the order of the Merchants & Farmers Bank of Portsmouth, Va., in renewal of a note for a similar amount; and (2) to issue, from time to time, notes in renewal thereof, for like amounts payable to said bank 90 days after date, but not later than August 25, 1922, with interest at the rate of 6 per cent per annum.

*Thomas H. Willcox* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Norfolk & Portsmouth Belt Line Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue under date of August 25, 1921, its 90-day 6 per cent promissory note for \$35,000, payable to the order of the Merchants & Farmers Bank of Portsmouth, Va., in renewal of a note for a like amount, and to issue notes in renewal thereof from time to time within a period of one year thereafter. No objection to the granting of the application has been made.

In pursuance of the authority contained in our order of August 25, 1920, in Finance Docket No. 15, the applicant issued a note for \$35,000, payable to the bank named, to provide itself with funds for the payment of certain construction work. The applicant was likewise authorized to renew this note for periods of 90 days, not to exceed in all the period of one year, and the last note issuable under that authority will mature on August 25, 1921. The applicant states that it is without funds with which to make payment and therefore asks authority to issue renewing notes for a further period of one year.

The proposed promissory note and the applicant's other outstanding notes of a maturity of two years or less will together aggregate 70 I. C. C.

more than 5 per cent of the par value of the applicant's outstanding securities.

We find that the issue of the proposed promissory note, and renewals thereof, by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Norfolk & Portsmouth Belt Line Railroad Company be, and it is hereby, authorized (1) to issue its promissory note in the face amount of \$35,000, payable to the order of the Merchants & Farmers Bank of Portsmouth, Va., 90 days after date, with interest at the rate of 6 per cent per annum; said note to be issued in renewal of a note for a like amount; and (2) to issue, from time to time, promissory notes for a like face amount, payable to said bank 90 days after date, with interest at the rate of 6 per cent per annum; said notes to be issued in renewal of the note hereinbefore authorized to be issued: *Provided, however*, That the maturity of any note so issued in accordance with the authority herein granted shall not, unless and until otherwise ordered by this commission, extend beyond August 25, 1922.

*It is further ordered*, That, except as herein authorized to be issued, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the issue and payment or satisfaction of the notes herein authorized to be issued; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to the said notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1510.

## IN THE MATTER OF THE APPLICATION OF THE GREAT NORTHERN RAILWAY COMPANY FOR APPROVAL OF THE EXECUTION OF AN EQUIPMENT-TRUST AGREEMENT AND FOR AUTHORITY TO ISSUE EQUIPMENT NOTES.

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*Submitted August 1, 1921. Decided August 23, 1921.*

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Authority granted to sell not exceeding \$606,000 of equipment gold notes in connection with the procurement of certain equipment.

*E. C. Lindley* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Great Northern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for an order under section 20a of the interstate commerce act approving the execution of an equipment-trust agreement and authorizing the issue of \$606,000 of equipment gold notes thereunder. No objection has been made to the granting of the application.

The applicant represents that in order to properly meet transportation requirements of the public it is essential that it procure 500 refrigerator cars. Arrangements have been made by the applicant to purchase the required equipment, under a proposed equipment-trust agreement, to be dated August 1, 1921, with the General American Car Company, hereinafter termed the vendor, and the First National Bank of the City of New York, trustee, at an aggregate cost of \$1,145,000.

By the terms of the proposed agreement, a tentative copy of which was submitted with the application, \$539,000 of the purchase price is payable in cash and the remaining \$606,000 in six equal annual installments of \$101,000 each. These installments are to be evidenced by equipment gold notes payable to bearer, to be issued either in coupon or registered form, to be in such denominations as shall be authorized by the board of directors or executive committee of the board of directors of the applicant, and to bear interest at the rate of 6½ per cent per annum. Notes in the aggregate face amount of

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\$101,000 will mature annually, beginning August 1, 1926, and ending August 1, 1931.

From and after delivery of the equipment the applicant will have possession of it and the right to its use, but the title thereto will remain in the vendor or his assignee for the benefit of the holders of the notes until the full purchase price, including all the notes representing deferred installments, with interest, shall have been paid, when title will vest in the applicant. It is proposed that the vendor, concurrently with the execution of the proposed equipment-trust agreement, shall assign to the trustee all its rights thereunder.

The sale of the notes to the trustee is proposed at a price that will produce  $97\frac{1}{2}$  per cent of the par value thereof, for application to the payment of the purchase price.

Heretofore the applicant made application under section 210 of the transportation act, 1920, as amended, for a loan to aid it in the acquisition of these cars, one steam ditcher, and one convertible pile driver and crane, the net cost of all of which to the applicant will be approximately \$1,174,320. In our certificate to the Secretary of the Treasury, in *Loan to Great Northern Ry.*, 70 I. C. C., 232, we authorized the making of such a loan from the United States in the amount of \$586,000, leaving approximately \$588,320 to be financed by the applicant.

We find that the proposed sale of not more than \$606,000 of said notes by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Great Northern Railway Company be, and it is hereby, authorized to sell at not less than  $97\frac{1}{2}$  per cent of par and accrued interest, not exceeding \$606,000, aggregate face amount, of equipment gold notes; said notes to be issued under and pursuant to, and to be secured by, a proposed equipment-trust agreement to be executed by and between the applicant, the General American Car Company, as vendor, and the First National Bank of the City of

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New York, as trustee, under date of August 1, 1921, and to be payable to bearer, to be in coupon and/or registered form, to be in such denominations as shall be authorized by the board of directors or executive committee of the board of directors of the applicant, to bear interest at the rate of 6½ per cent per annum, payable semi-annually on February 1 and August 1, and to be in the form set forth in the copy of the proposed equipment-trust agreement submitted with the application; said notes to mature annually in aggregate face amounts of \$101,000, beginning August 1, 1926, and ending August 1, 1931, and the proceeds thereof to be used solely in the procurement of equipment as set forth in the application.

*It is further ordered*, That, within 10 days after the execution and delivery of said equipment-trust agreement, an authenticated copy thereof shall be filed with this commission in the form in which executed.

*It is further ordered*, That, except as herein authorized, said notes shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall within 10 days thereafter report to this commission all pertinent facts relating to (1) the delivery of the equipment; and (2) the sale of said notes, including the amount of discount thereon, and the application of the proceeds thereof, together with the account or accounts charged therewith; and shall, for the period ending August 31, 1926, and for each period of one year thereafter, within 30 days after the close of such periods, report to this commission all pertinent facts relating to the payment or satisfaction of said notes, or any part thereof, within the period for which report is made; and shall continue to make such reports, until all of said notes shall have been paid or otherwise satisfied, and title to the equipment procured thereby shall have been vested in the applicant; each report to be signed and verified by an executive officer of the applicant having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1542.

## IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE INTERNATIONAL &amp; GREAT NORTHERN RAILWAY COMPANY FOR AUTHORITY TO DELIVER EQUIPMENT NOTES AND PLEDGE RECEIVER'S CERTIFICATES.

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*Submitted August 3, 1921. Decided August 23, 1921.*

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Authority granted (1) to deliver 24 notes, each in the face amount of \$8,601.83, to the Baldwin Locomotive Works in part payment for eight locomotives; and (2) to pledge receiver's certificates aggregating \$194,300 with the Secretary of the Treasury as security for a loan under section 210 of the transportation act, 1920, as amended.

*Samuel R. Dabney* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

James A. Baker, receiver of the International & Great Northern Railway Company, acting as a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to deliver to the Baldwin Locomotive Works 24 notes, each in the face amount of \$8,601.83, in part payment for eight locomotives, and (2) to pledge with the Secretary of the Treasury five certificates, each in the face amount of \$38,860, as security for a loan under section 210 of the transportation act, 1920, as amended. No objection has been made to the granting of the application.

The applicant was appointed receiver of the International & Great Northern Railway Company, and of all its property and assets, by an order of the United States District Court for the Southern District of Texas, entered in the case of *Central Trust Company of New York* (now the Central Union Trust Company of New York) v. *The International & Great Northern Railway Company et al.*, No. 49 in equity, on August 10, 1914.

The applicant represents that in order to properly meet transportation requirements of the public it is essential that he procure four switching and four freight locomotives. To obtain these locomotives he proposes to enter into a contract of sale with the Baldwin Loco-

motive Works, a copy of which is on file in this proceeding, under which the locomotive works is to sell and deliver the locomotives to the applicant. The price specified is \$388,600, of which one-half, \$194,300, will be paid in cash upon delivery of the locomotives, and the remainder will be evidenced by 24 notes, each for \$8,601.83, which amount includes interest at the rate of 6 per cent per annum. These notes are to be dated as of the date of delivery of the locomotives and to mature successively at intervals of one month. They will bear no interest other than included in their face amounts. The title to the locomotives will remain in the vendor until all of the notes have been paid and the conditions of the contract fulfilled. The contract will be executed, and the notes delivered, pursuant to authority contained in an order of court dated April 28, 1921.

By our amended certificate No. 74, in *Loan to Receiver of I. & G. N. Ry.*, 70 I. C. C., 336, we approved the making of a loan of \$194,300 from the United States to the applicant under section 210 of the transportation act, 1920, as amended, to aid him in obtaining the locomotives. This loan will be secured by the pledge with the Secretary of the Treasury of \$194,300 of 6 per cent receiver's certificates in pursuance of authority contained in the above-mentioned order of court. The loan is to be repaid in five installments of \$38,860 each, payable in succession at yearly intervals, beginning one year after the making of the loan. The receiver's certificates will be dated as of the date of the loan for which they are to be pledged as security. Each certificate will be for \$38,860, payable to bearer with interest at the rate of 6 per cent per annum. They will mature successively at the time fixed for the payment of installments in repayment of the loan. As these installments are paid, certificates for a like amount will be released from pledge.

We find that the proposed issues of notes and receiver's certificates by the applicant (*a*) are for lawful objects within the duly authorized purposes of the receiver, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by him of service to the public as a common carrier, and which will not impair his ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That James A. Baker, receiver of the International & Great Northern Railway Company, be, and he is hereby, authorized (1) to deliver to the Baldwin Locomotive Works, in conformity with and as authorized by the order of the District Court of the United States for the Southern District of Texas, made in cause in equity No. 49, dated April 28, 1921, 24 notes, each in the face amount of \$8,601.83, which includes interest at the rate of 6 per cent per annum, in part payment for eight locomotives, as more fully described in said report; said notes to be dated as of the date of the delivery of the locomotives, to mature successively after date at intervals of one month, to bear no interest other than included in the face amounts thereof, and to be issued under and pursuant to the proposed contract of sale described in said report, and to be in the form set forth in the application; and (2) to pledge with the Secretary of the Treasury, in conformity with and as authorized by the order of court aforesaid, five receiver's certificates of indebtedness, each in the face amount of \$38,860, and aggregating \$194,300, as security for a loan of \$194,300 from the United States under section 210 of the transportation act, 1920, as amended; said certificates to be payable to bearer, to be dated as of the date of the making of the loan for which they are to be pledged, to bear interest at the rate of 6 per cent per annum, and to mature successively after date at intervals of one year.

*It is further ordered,* That the applicant shall, within 10 days after the execution and delivery of said contract of sale, file with this commission a verified copy thereof in the form in which executed.

*It is further ordered,* That, except as herein authorized to be delivered and pledged, said notes and receiver's certificates shall not be sold, pledged, repledged, or otherwise disposed of by said receiver or his successor in interest, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall report to this commission all pertinent facts relating to (1) the delivery of said notes, (2) the payment and cancellation thereof, (3) the pledge of said certificates, and (4) their release from pledge, within 10 days thereafter, respectively; said reports to be signed by the applicant and verified by his oath.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or as to said certificates, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1554.

IN THE MATTER OF THE APPLICATION OF THE WEST-  
ERN MARYLAND RAILWAY COMPANY FOR A LOAN  
FROM THE UNITED STATES TO PROVIDE ADDITIONS  
AND BETTERMENTS.

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*Submitted August 19, 1921. Decided August 23, 1921.*

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Application granted and loan of \$1,000,000 approved.

*M. C. Byers* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

BY DIVISION 4:

The Western Maryland Railway Company, a carrier by railroad subject to the interstate commerce act, on August 12, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to enable the applicant to provide itself with additions and betterments. On August 18, 1921, the applicant amended and supplemented the application.

In the application, as amended and supplemented, the applicant sets forth:

1. That the amount of the loan desired is \$1,000,000.
2. That the term for which the loan is desired is 10 years.
3. That the purpose of the loan and the use to which it will be applied are to enable the applicant to enlarge its grain elevator and elevator facilities at Port Covington terminal, near Baltimore, Md., as follows:

Work house, 44 feet 2 inches by 62 feet:

(a) Foundations and miscellaneous-----	\$39, 180
(b) Building-----	127, 700
(c) Equipment-----	157, 430
(d) Extension to track shed-----	17, 720

Storage No. 3—36 tanks, 85 feet 5 inches by 191 feet 8 inches:

(a) Foundations-----	71, 825
(b) Tanks-----	133, 070
(c) Equipment-----	42, 735

Storage No. 4—18 tanks, 64 feet 2 inches by 127 feet 11 inches:

(a) Structure-----	104, 500
(b) Equipment-----	36, 800
(c) Bridges to work house-----	6, 600

Extension to dock, 57 feet by 250 feet-----	75, 200
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Extension to gallery, 250 feet:

(a) Structure-----	\$19,720
(b) Equipment-----	48,320
Timber bulkhead 220 feet long-----	6,600
Extension to tracks, including trestles-----	15,500
Addition to drier house-----	12,100
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Construction-----	910,000
Engineering and contingencies-----	90,000
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Total estimated cost-----	1,000,000

4. Its present and prospective ability to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is applicant's first and refunding mortgage bonds at 65½ per cent of par.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to provide the necessary facilities for the economical and expeditious movement of export grains.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation, we find that the making of the requested loan by the United States, for the purpose and in the amount hereinabove set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 113 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$1,000,000 by the United States in six parts, as hereinafter set forth, to the Western Maryland Railway



Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to provide itself with additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$1,000,000.

4. That the time from the making of the first part thereof within which the loan is to be repaid in full is 10 years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be made in six parts, on the dates and in the amounts hereinbelow set forth:

October 1, 1921	\$150,000
November 1, 1921	200,000
December 1, 1921	300,000
January 2, 1922	200,000
February 1, 1922	100,000
March 1, 1922	50,000
Total	1,000,000

(b) The loan shall be secured when and as the parts thereof are made by the pledge pro rata of \$1,527,000, principal amount, of applicant's first and refunding mortgage 50-year series-A 5 per cent gold bonds, due 1967, issued under an indenture of mortgage dated July 1, 1917, executed and delivered by the applicant to the Equitable Trust Company of New York, as trustee. Said bonds are in temporary form, without coupons, and are exchangeable for definitive coupon bonds of the same series, of the same aggregate principal amount, and substantially identical in tenor and of authorized denominations, when prepared. Said temporary bonds are numbered and of principal amounts, as follows:

No. B-20	\$3, 000. 00
No. B-25	229, 050. 00
No. B-26	305, 400. 00
No. B-27	458, 100. 00
No. B-28	305, 400. 00
No. B-29	152, 700. 00
No. B-30	73, 030. 28
No. B-31	319. 77
Total	1, 527, 000. 00

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any portion of the loan before maturity. When and as repayment is made on any part of the loan, the collateral securing that part of the loan shall be released proportionately, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(f) The applicant has agreed in an instrument in writing, dated the 30th day of August, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The expenditures made from the loan shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (2) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan shall have been expended or definitely obligated for said purposes, or shall be repaid to the United States, on or before July 1, 1922. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidenc-

ing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States; and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 12th day of September, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1252.

## IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE LOUISIANA &amp; NORTHWEST RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted August 17, 1921. Decided August 24, 1921.*

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Certificate issued authorizing the abandonment of a portion of a line of railroad in Natchitoches Parish, La.

*John D. Wilkinson, E. R. Bernstein, and George A. Campbell* for applicant.

*L. F. Daspit* for Shreveport Chamber of Commerce, W. S. Johnson Lumber Company, Foster & Glassell, W. F. Taylor Company, Farmer's Oil Mill, and citizens of Saline.

*J. H. Keyser* and *L. F. Daspit* for Natchitoches Chamber of Commerce.

*Jasper W. Jones, jr., and W. A. Aiery* for the police jury of Natchitoches Parish.

*B. S. Atkinson* for Louisiana & Arkansas Railway Company.

*W. F. Johnson, E. L. Frey, Eugene Rogers, J. L. Clayton, F. S. Mayfield,* and *W. S. Montgomery* for the town of Saline; *J. A. Harmonson* for the town of Grand Ecore; and *J. O. Williams* and *J. R. Weaver* for the town of Creston.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

E. R. Bernstein, receiver of the Louisiana & Northwest Railroad Company, hereinafter called the Louisiana, acting as a common carrier by railroad subject to the interstate commerce act, on February 25, 1921, filed an application, pursuant to paragraph (18) in section 1 of the interstate commerce act, for a certificate that the present and future public convenience and necessity permit the abandonment of a portion of the Louisiana's line of railroad extending from Bienville, La., to Natchitoches, La., or in any event the abandonment of that portion of the line extending from Chestnut, La., to Natchitoches. A hearing was held for us by the Railroad Commission of Louisiana. At the hearing the application was limited to the abandonment of that portion of the line extending from Chestnut to Natchitoches. No representations have been made by the Railroad

Commission of Louisiana or other State authorities either in favor of or against the granting of the application.

The railroad of the Louisiana extends from Magnolia, Ark., in a general southerly direction to Natchitoches, La., a distance of 115 miles. From Magnolia to McNeil, Ark., a distance of 6.4 miles, the Louisiana operates over the tracks of the St. Louis Southwestern Railway Company.

On August 22, 1913, the road was placed in the hands of a receiver. It is stated that operations by the receiver to October 1, 1920, resulted in a loss of \$556,235.79, and it is claimed that this loss was occasioned by light traffic on the southern part of the line.

The record shows that the portion of the road from Chestnut to Natchitoches, a distance of approximately 22 miles, is in very poor physical condition and that it would be unsafe to operate trains over it. The Railroad Commission of Louisiana on February 11, 1921, ordered the Louisiana and its receiver to cease operating trains south of Chestnut until such repairs were made as would render that part of the railroad safe for the operation of trains. No trains have been operated south of Chestnut since that date. Since the entry of this order a portion of the track along the Red River, near Grand Ecore, has been washed away by a cave-in of the river bank, and it is estimated that to replace this destroyed section of roadway would require the construction of 1.5 miles of new track at a cost of from \$30,000 to \$37,500. The testimony shows it would cost from \$15,000 to \$20,000 a mile to rehabilitate the line south of Chestnut and place it in a condition for safe operation. The receiver testified that he had no funds with which to make these repairs and could not raise additional money. There are outstanding \$300,000 of receiver's certificates which have been pledged as collateral. The receiver is in default in payment of the interest on these certificates, and he states that it would be impossible to dispose of additional certificates.

Between Chestnut and Natchitoches the country is sparsely settled and this road does not serve any towns of size or importance. The tributary territory appears to be largely cut-over timber land with a small agricultural development. The only industry of importance along the line is an oil mill at Grand Ecore. The abandonment of this portion of the road would necessitate the hauling of the product of this mill to the Texas & Pacific Railroad at Natchitoches, a distance of 4 miles, or to the Louisiana Railway & Navigation Company's railroad at Hagen or Campti. There is a public gravel road from Grand Ecore to Natchitoches and to Campti. The town of Chestnut, at the northern end of the line proposed to be abandoned, is served by the Louisiana & Arkansas Railroad, and Natchitoches,

at the southern end, is served by the Texas & Pacific. The territory between Chestnut and Natchitoches is traversed by the Louisiana Railway & Navigation Company's railroad, which crosses the Louisiana's railroad at Hagen. If the line south of Chestnut were abandoned the maximum distance to a railroad station from any point in the tributary territory would be about 6 miles.

It appears that the revenues derived from the traffic on this part of the line have never been sufficient to pay the costs of operation. The receiver states that the gross revenue from the line south of Chestnut for 1920 was \$18,909.10 and the operating expenses were \$57,501.70. There does not appear to be any prospect that sufficient traffic could be developed to make this part of the road self-sustaining.

Recently the earnings of the line north of Chestnut have materially increased because of the oil developments at Homer, La., and Haynesville, La. It is stated that this part of the line can be operated at a small profit, but that operation of the line south of Chestnut would accomplish the wreck of the entire railroad, as the operating revenues of the road as a whole will not pay its operating expenses. Efforts to find a purchaser of the road as a going concern have been futile.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of that portion of applicant's line of railroad extending from Chestnut, La., to Natchitoches, La., as prayed for in the application. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment of the portion of the line of the Louisiana & Northwest Railroad described in said report, extending from Chestnut to Natchitoches, in the State of Louisiana.

*It is ordered,* That E. R. Bernstein, receiver of the Louisiana & Northwest Railroad Company, be, and he is hereby, authorized to abandon said portion of said line of railroad;

*It is further ordered,* That said receiver, when filing schedules canceling tariffs applicable to said portion of said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

FINANCE DOCKET No. 969.

IN THE MATTER OF THE APPLICATION OF THE HUNTINGDON & BROAD TOP MOUNTAIN RAILROAD & COAL COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MAKING ADDITIONS AND BETTERMENTS.

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*Submitted August 15, 1921. Decided August 25, 1921.*

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Applicant having failed to consummate the loan certified in this proceeding under date of December 23, 1920, certificate canceled. Previous report, 65 I. C. C., 499.

*Carl M. Gage* for applicant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On December 16, 1920, we approved a loan of \$60,550 to the Huntingdon & Broad Top Mountain Railroad & Coal Company under section 210 of the transportation act, 1920, to aid that company in making additions and betterments to way and structures, and under date of December 23, 1920, a certificate in that sum was duly issued to the Secretary of the Treasury. *Loan to Huntingdon & Broad Top Mountain R. R.*, 65 I. C. C., 499. One of the conditions of the loan was that the applicant should furnish a surety bond as security therefor. Such security was not furnished, and the applicant having secured financial aid elsewhere, it has requested us to cancel the aforesaid certificate. A certificate of cancellation will accordingly be issued.

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*Certificate of Cancellation.*

The Interstate Commerce Commission hereby cancels its certificate No. 54, December 23, 1920, approving a loan of \$60,550 to the Huntingdon & Broad Top Mountain Railroad & Coal Company, under section 210 of the transportation act, 1920, as amended.

Done in Washington, D. C., this 25th day of August, 1921.

70 I. C. C.



## FINANCE DOCKET No. 1487.

IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE PITTSBURG, SHAWMUT & NORTHERN RAILROAD COMPANY TO ACQUIRE, BY LEASE, CONTROL OF THE ROCHESTER, HORNELLSVILLE & LACKAWANNA RAILROAD.

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*Submitted August 17, 1921. Decided August 25, 1921.*

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Acquisition by Henry S. Hastings, receiver of the Pittsburg, Shawmut & Northern Railroad Company, of control of the Rochester, Hornellsville & Lackawanna Railroad, by lease, approved and authorized.

*Henry S. Hastings and D. D. Dickson for applicant.*

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

Henry S. Hastings, receiver of the Pittsburg, Shawmut & Northern Railroad Company, hereinafter called the Pittsburg, acting as a common carrier by railroad subject to the interstate commerce act, on June 6, 1921, filed an application pursuant to paragraph (2) of section 5 of the interstate commerce act for an order authorizing him to acquire, by lease, control of the Rochester, Hornellsville & Lackawanna Railroad, hereinafter called the Rochester. A hearing was held upon this application as provided by law.

The Rochester extends from a connection with the railroad of the Pittsburg at Moraine, Allegany County, N. Y., in a general southeasterly direction to a point in the city of Hornell, Steuben County, N. Y., a distance of 10.38 miles.

The Rochester, Hornellsville & Lackawanna Railroad Company was incorporated under the laws of New York June 9, 1886. Its property was placed in the hands of a receiver on September 8, 1889. In December, 1892, its property was sold under foreclosure proceedings and purchased by certain individuals. Subsequently the interests of the purchasers were acquired by Frank S. Smith. It is stated that the corporation known as the Rochester, Hornellsville & Lackawanna Railroad Company lapsed upon the sale under foreclosure of all its properties, and that there is not now and has not been for many years any such corporate organization. Frank S.

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Smith died on November 15, 1920, leaving a last will and testament in which he named Clara A. H. H. Smith as his sole legatee and devisee, and she thereupon became and now is the sole owner of the Rochester. This line of railroad has been operated by the Pittsburg and its receivers and by the immediate predecessor of the Pittsburg continuously since December, 1892. The revenues and expenses resulting from such operation have been included without separation in the accounts of the railroad or receiver at the time engaged in operating the line. It has no motive power, rolling stock, engine-house, or shop facilities, and the contention is made that its separate operation is practically impossible. The Rochester affords the Pittsburg its entrance into the city of Hornell and its principal connection with the Erie Railroad at that point. It is stated that discontinuance of operation of the Rochester by the Pittsburg would result in the abandonment of operations over the Rochester, would necessitate the cancellation of through rates and routes on a large proportion of traffic originating on the Pittsburg and the diversion of that traffic to other routes, and would deprive several shipping points on the Rochester of the benefits of competitive service. The Rochester does not parallel or compete with any part of the line of the Pittsburg.

The leases under which the Rochester has been operated by the Pittsburg and its predecessor, dated, respectively, July 1, 1895, and August 1, 1899, provided for a contingent rental based upon the net earnings from operation of the Rochester, but apparently did not take into account the benefits accruing to the Pittsburg from such operation. Under these leases no rental has ever been paid to the owner of the Rochester. The leases also contained a provision for termination by the lessor upon 30 days' notice. Notice of the termination of said leases, effective March 15, 1921, was served by Clara A. H. H. Smith upon the receiver of the Pittsburg at least 30 days prior to March 15, 1921. Upon the termination of the leases heretofore in effect the parties agreed upon the terms of a new lease, the commission's approval of which is now requested.

The only material change which the proposed lease makes in the heretofore existing relations is that it provides for a fixed rental of \$3,000 per year to be paid to the lessor. This rental payment is based upon an interest charge of 5 per cent per annum on the approximate cost of the Rochester to its former owner, Frank S. Smith. The proposed lease provides that it shall remain in full force and effect until terminated by either party upon six months' notice. In any event, it is to terminate at the end of the receivership of the Pittsburg. The Supreme Court of New York and the United States District Court for the Western District of Pennsylvania, the courts having charge

of the receivership of the Pittsburg, have approved the proposed lease and authorized the receiver of the Pittsburg to execute it.

Upon the facts presented we find that the acquisition by Henry S. Hastings, receiver of the Pittsburg, of control of the Rochester, under the terms of the lease described in the application, will be in the public interest. An order will be entered accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That acquisition, to the extent indicated in said report, by Henry S. Hastings, receiver of the Pittsburg, Shawmut & Northern Railroad Company, of the control of the Rochester, Hornellsville & Lackawanna Railroad by and under the lease described in the application and report aforesaid be, and the same is hereby, approved and authorized.

70 I. C. C.

FINANCE DOCKET No. 1504.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS AND IN PROVIDING ADDITIONS AND BETTERMENTS.

Submitted August 17, 1921. Decided August 26, 1921.

Application granted and loan of \$8,000,000 approved.

E. G. Buckland for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, POTTER, AND ESCH.

BY DIVISION 4:

The New York, New Haven & Hartford Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on June 25, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness and in providing itself with additions and betterments.

On July 5 and August 17, 1921, the applicant amended and supplemented the application.

In the application, as amended and supplemented, the applicant sets forth:

- 1. That the amount of the loan desired is \$8,000,000.
- 2. That the term for which the loan is desired is 10 years.
- 3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purpose.	Principal amount or estimated cost.	Financed by applicant.	Loan from United States.
Maturing indebtedness (principal):			
Seventh installment series-CC 4½ per cent trust certificates, due March 1, 1920.....	\$65,000.00	.....	.....
Sixth installment series-A 5 per cent trust certificates, due April 1, 1920.....	166,000.00	.....	.....
Montville Street Ry. Co. 5 per cent first-mortgage gold bonds, due May 1, 1920.....	250,000.00	.....	.....
Eleventh installment Series-AA 6 per cent trust certificates, due May 1, 1920.....	48,000.00	.....	.....
Fourth installment series-DD 6 per cent trust certificates, due May 15, 1920.....	171,000.00	.....	.....

Purpose.	Principal amount or estimated cost.	Financed by applicant.	Loan from United States.
<b>Maturing indebtedness (principal)—Continued.</b>			
Government equipment trust No. 53, installment due January 15, 1921.....	\$287,100.00	.....	.....
Equipment trust CC, installment due March 1, 1921.....	65,000.00	.....	.....
Equipment trust A, installment due April 1, 1921.....	166,000.00	.....	.....
Equipment trust EE, class A, installment due April 1, 1921...	68,000.00	.....	.....
Equipment trust AA, installment due May 1, 1921.....	48,000.00	.....	.....
Equipment trust DD, installment due May 15, 1921.....	171,000.00	.....	.....
Equipment trust BB, installment due June 1, 1921.....	123,000.00	.....	.....
Equipment trust CC, installment due September 1, 1921.....	65,000.00	.....	.....
Equipment trust EE, class A, installment due October 1, 1921..	68,000.00	.....	.....
Equipment trust EE, class B, installment due October 1, 1921..	100,000.00	.....	.....
New Haven station 5 per cent debenture D, due November 1, 1921.....	100,000.00	.....	.....
Equipment trust AA, installment due November 1, 1921.....	49,000.00	.....	.....
Equipment trust DD, installment due November 15, 1921....	171,000.00	.....	.....
Equipment trust BB, installment due December 1, 1921.....	122,000.00	.....	.....
Government equipment trust No. 53, installment due January 15, 1922.....	295,900.00	.....	.....
<b>Maturing indebtedness (interest):</b>			
Real estate mortgage note to Columbus Avenue Trust, due July 2, 1921.....	3,750.00	.....	.....
Hartford Street Railway debentures, due July 15, 1921.....	3,300.00	.....	.....
Convertible 6 per cent debentures, due July 15, 1921.....	1,156,236.00	.....	.....
Government equipment trust No. 53, due July 15, 1921.....	124,278.00	.....	.....
Consolidated Railway debentures, due August 1, 1921.....	19,393.00	.....	.....
Boston & New York Air Line Railroad bonds, due August 1, 1921.....	75,540.00	.....	.....
Real estate mortgage note, J. A. Callen, due August 16, 1921..	2,500.00	.....	.....
Note to Director General of Railroads, due September 1, 1921..	510,000.00	.....	.....
New Haven & Centerville Street Railway bonds, due September 1, 1921.....	7,075.00	.....	.....
Hartford Street Railway bonds, due September 1, 1921.....	50,000.00	.....	.....
Nonconvertible 4 per cent debentures, due September 1, 1921..	100,000.00	.....	.....
Equipment trust CC, due September 1, 1921.....	16,087.50	.....	.....
Nonconvertible 3½ per cent debentures, due September 1, 1921..	87,342.50	.....	.....
Providence Terminal Company bonds, due September 1, 1921..	80,000.00	.....	.....
New York & New England Boston terminal bonds, due September 15, 1921.....	30,000.00	.....	.....
European-loan franc debentures, due September 20, 1921.....	214,296.62	.....	.....
Norwich Street Railway bonds, due September 20, 1921.....	8,750.00	.....	.....
New London Street Railway bonds, due September 20, 1921..	3,750.00	.....	.....
European-loan dollar debentures, due October 1, 1921.....	282,360.00	.....	.....
Hartford, Man. & Rockville Tram Co. bonds, due October 1, 1921.....	5,000.00	.....	.....
Pawtuxet Valley Railroad bonds, due October 1, 1921.....	3,200.00	.....	.....
Providence Securities Co. debentures, due October 1, 1921....	147,340.00	.....	.....
Gold 4 per cent debentures, 1957, due October 1, 1921.....	23,220.00	.....	.....
Nonconvertible 3½ per cent debentures, due October 1, 1921..	174,983.25	.....	.....
Danbury & Norwalk Railroad bonds, due October 1, 1921....	3,750.00	.....	.....
Naugatuck Railroad debentures, due October 1, 1921.....	4,095.00	.....	.....
New York, Providence & Boston Railroad bonds, due October 1, 1921.....	20,000.00	.....	.....
Equipment trust A, due October 1, 1921.....	33,200.00	.....	.....
Consolidated Railway 4 per cent debentures, 1955, due October 1, 1921.....	26,800.00	.....	.....
Notes in favor of Secretary of Treasury, due October 31, 1921..	243,900.00	.....	.....
New Haven station debentures, due November 1, 1921.....	10,000.00	.....	.....
N. Y., N. H. & H.—H. R. & P. C. bonds, due November 1, 1921..	300,000.00	.....	.....
Equipment trust AA, due November 1, 1921.....	10,200.00	.....	.....
Nonconvertible 4 per cent debentures, due November 1, 1921..	300,000.00	.....	.....
Providence Securities Co. debentures, due November 1, 1921..	4,600.00	.....	.....
Gold 4 per cent debentures, 1957, due November 1, 1921.....	160,000.00	.....	.....
Naugatuck Railroad bonds, due November 1, 1921.....	50,000.00	.....	.....
Housatonic Railroad bonds, due November 1, 1921.....	70,975.00	.....	.....
Note to Suffolk Savings Bank, due November 7, 1921.....	6,105.00	.....	.....
Equipment trust DD, due November 15, 1921.....	71,820.00	.....	.....
Danbury & Norwalk Railroad bonds, due December 1, 1921..	7,000.00	.....	.....
New Haven & Northampton Co. bonds, due December 1, 1921..	48,000.00	.....	.....
Worcester & Connecticut Eastern Railway bonds due December 1, 1921.....	37,147.50	.....	.....
Greenwich Tramway Co. bonds, due December 1, 1921.....	8,000.00	.....	.....
Equipment trust BB, due December 1, 1921.....	24,795.00	.....	.....
Meriden, Southington & Compounce Tram Co. bonds, due December 1, 1921.....	4,375.00	.....	.....
Convertible 3½ per cent debenture certificates, due December 28, 1921.....	155,983.63	.....	.....
New England Railroad bonds, due January 1, 1922.....	387,500.00	.....	.....
Stafford Springs Street Railway bonds, due January 1, 1922....	10,000.00	.....	.....
Consolidated Railway debentures, due January 1, 1922.....	85,100.00	.....	.....
Nonconvertible 4 per cent debentures, due January 1, 1922....	300,000.00	.....	.....
Consolidated Railway debentures, due January 1, 1922.....	86,400.00	.....	.....

Purpose.	Principal amount or estimated cost.	Financed by applicant.	Loan from United States.
<b>Maturity indebtedness (Interest)—Continued.</b>			
Providence & Springfield Railroad bonds, due January 1, 1922.	\$18,750.00	.....	.....
Meriden Horse Railroad bonds, due January 1, 1922.....	10,375.00	.....	.....
Total maturing indebtedness.....	8,226,253.00	\$1,627,253	\$6,599,000
<b>Additions and betterments:</b>			
Rail and other track material.....	276,070.00	.....	.....
Bridges, trestles, and culverts.....	70,000.00	.....	.....
Eliminating grade crossings.....	181,000.00	.....	.....
Additional main tracks.....	20,000.00	.....	.....
Additional yard tracks, sidings, and industry tracks.....	50,000.00	.....	.....
Changes of grade or alignment.....	30,000.00	.....	.....
Signals and interlocking plants.....	75,000.00	.....	.....
Telegraph and telephone lines.....	81,000.00	.....	.....
Station office buildings and other station facilities.....	75,000.00	.....	.....
Fuel stations and appurtenances.....	20,000.00	.....	.....
Shop buildings, enginehouses, and appurtenances.....	150,000.00	.....	.....
Shop machinery and tools.....	250,000.00	.....	.....
Electric power plants, substations, and transmission.....	17,000.00	.....	.....
Improvements to freight-train cars.....	140,000.00	.....	.....
Improvements to passenger-train cars.....	155,000.00	.....	.....
Improvements to other existing equipment.....	195,000.00	.....	.....
Total additions and betterments.....	1,785,070.00	384,070	1,401,000
Grand total.....	10,011,323.00	2,011,323	8,000,000

4. Its present and prospective ability to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is \$4,775,000 par value of applicant's first and refunding mortgage bonds and certain stocks and bonds of other carriers.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to provide needed improvements to its property and to preserve its credit, thus enabling it properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation, we find that the making of the requested loan by the United States, for the purposes and in the amounts above set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the

United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

COMMISSIONER DANIELS dissents.

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*Certificate No. 112 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$8,000,000, in two parts, as hereinafter set forth, by the United States to the New York, New Haven & Hartford Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in meeting its maturing indebtedness and in providing itself with additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$8,000,000.

4. That the time from the making thereof within which each part of the loan is to be repaid in full is 10 years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be made in two parts in the order hereinbelow set forth: (1) One part of the loan shall be in the amount of \$3,000,000 and shall be secured by the pledge of applicant's first and refunding mortgage 15-year series-B 6 per cent gold bond, due October 31, 1935, issued under an indenture of mortgage dated December 9, 1920, executed and delivered by the applicant to the Bankers Trust Company, of New York, as trustee. Said bond is numbered T-b-7, is of a principal amount of \$4,775,000, and is in temporary form, without coupons, exchangeable for definitive coupon bonds of the same series in denomination of \$1,000, and numbered BM-10226 to BM-15000, inclusive; and (2) the other part of the loan shall be in the amount of \$5,000,000 and shall be secured by the pledge of the following described securities:

Common capital stock of the New York, Ontario & Western Railway Company, a corporation duly organized and existing under and



by virtue of the laws of the State of New York, in the amount of \$29,160,000 par value. Said stock is evidenced by the following described certificates, issued in the name of applicant, indorsed in blank:

No. B-30259 .....	287,300 shares
No. B-30385 .....	8,300 shares
No. 68643 to 68652, both inclusive, for 100 shares each.....	1,000 shares
Total .....	291,600 shares

First-mortgage 35-year 4½ per cent gold bonds due 1946, of the New York, Westchester & Boston Railway Company, a corporation duly organized and existing under and by virtue of the laws of the State of New York in the amount of \$2,190,000. Said bonds are issued under an indenture of mortgage dated July 1, 1911, executed and delivered by the New York, Westchester & Boston Railway Company to the Guaranty Trust Company of New York, as trustee. Said bonds are in definitive coupon form, having coupon due January 1, 1922, and all subsequent coupons attached, are in the denomination of \$1,000 and are numbered 19201 to 21200, inclusive, upon which the guaranty of the applicant is executed and 21201 to 21390, inclusive, upon which said guaranty is not executed.

Common capital stock of the Old Colony Railroad Company, a corporation duly organized and existing under and by virtue of the laws of the State of Massachusetts in the amount of \$2,000,000 par value. Said stock is evidenced by the following described certificates issued in the name of applicant, indorsed in blank:

No. 45067 .....	10,000 shares
No. 45068 .....	10,000 shares

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any portion of the loan before maturity. When and as any repayment is made on either part of the loan, the collateral securing that part of the loan shall be released proportionately, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(e) The applicant has agreed in an instrument in writing, dated the 27th day of August, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed  $7\frac{1}{2}$  per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan for additions and betterments, together with the entire amount to be financed by the applicant for additions and betterments, shall have been expended or definitely obligated for said purposes, or the entire loan for additions and betterments shall be repaid to the United States on or before July 1, 1922. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 29th day of August, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1437.

IN THE MATTER OF THE JOINT APPLICATION OF THE  
BELFAST & MOOSEHEAD LAKE RAILROAD COMPANY  
AND THE MAINE CENTRAL RAILROAD COMPANY FOR  
AN ORDER APPROVING AND AUTHORIZING THE AC-  
QUISITION OF CONTROL OF THE BELFAST & MOOSE-  
HEAD LAKE RAILROAD COMPANY BY LEASE.

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*Submitted August 20, 1921. Decided August 29, 1921.*

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Acquisition by the Maine Central Railroad Company of control of the Belfast & Moosehead Lake Railroad under lease approved and authorized.

*Charles H. Blatchford* for applicants.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Belfast & Moosehead Lake Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, hereinafter called the Belfast, and the Maine Central Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter called the Maine, on May 9, 1921, filed their joint application pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing the Maine to acquire control of the Belfast pursuant to a mutual agreement for lease of the railroad of the Belfast to the Maine. A hearing was held upon this application as provided by law.

The railroad of the Belfast extends from the city of Belfast to a point of connection with the main line of the railroad of the Maine near Burnham station, wholly within Waldo County, Me., a distance of approximately 33 miles.

On April 27, 1871, the Belfast leased its railroad to the Maine for a period of 50 years from May 10, 1871. By the terms of the lease the Maine agreed to pay to the Belfast, as rental, the sum of \$36,000 per annum, and in addition thereto, to pay all taxes that might be assessed upon the corporation of the Belfast, and upon the leased property, but not including any tax that might be assessed upon the stock or bonds of the Belfast. Pursuant to this lease the Maine has operated the railroad of the Belfast as a branch line. This lease

expired May 10, 1921. The applicants propose in effect to extend and continue in force the terms and conditions of said lease from and after May 10, 1921, and until either party thereto shall terminate the same by giving to the other party six months' notice of its election so to do. The only change which the proposed lease makes in the terms of the original lease is that it substitutes a provision for indefinite continued operation in place of a fixed term of 50 years. The Public Utilities Commission of Maine, by an order entered March 4, 1921, authorized the applicants to enter into the proposed lease agreement.

The Belfast has an authorized capital stock of \$648,100, all of which is issued and outstanding. Of this amount \$267,700 is preferred stock and \$380,400 is common stock. It has an unmatured funded indebtedness of \$9,000, consisting of first-mortgage 4 per cent bonds. At the end of 1919 its road and equipment account showed an investment of \$825,212.12.

The Belfast's railroad does not parallel or compete with that of the Maine, but affords the latter its entrance into the city of Belfast. The Belfast is not an operating company and does not possess any equipment. It files reports with this commission as a lessor company. Discontinuance of operation of the Belfast's railroad by the Maine would necessitate the complete readjusting of the Belfast's organization, the purchasing by it of necessary rolling stock and equipment to conduct transportation, the filing of new tariffs, and the establishing of through routes and rates. The proposed lease merely continues in force a relation that has existed for the past 50 years.

Upon consideration of the record we find that the acquisition, to the extent and in accordance with the terms and conditions proposed in the joint application herein, by the Maine of the control of the Belfast under the proposed lease, will be in the public interest; and we conclude that such acquisition should be authorized and approved.

An order will be entered accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That acquisition by the Maine Central Railroad Company of control of the Belfast & Moosehead Lake Railroad by and under the lease described in the application and report aforesaid be, and the same is hereby, approved and authorized.

70 I. C. C.

## FINANCE DOCKET No. 1538.

## IN THE MATTER OF THE APPLICATION OF THE BALTIMORE &amp; OHIO RAILROAD COMPANY AND OF THE TOLEDO &amp; CINCINNATI RAILROAD COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted July 28, 1921. Decided August 29, 1921.*

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1. Authority granted to the Toledo & Cincinnati Railroad Company to issue \$2,447,000 of its first and refunding mortgage 6 per cent bonds, series C; said bonds to be delivered to the Baltimore & Ohio Railroad Company and by it pledged with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage.
2. Authority granted to the Baltimore & Ohio Railroad Company to issue \$2,447,000 of its Toledo-Cincinnati division first-lien and refunding mortgage 6 per cent bonds, series C; said bonds to be pledged and repledged, from time to time, until otherwise ordered, as collateral security for any note or notes which it may issue under paragraph (9) of section 20a of the interstate commerce act.

*George Shriver* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Baltimore & Ohio Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$2,447,000 of its Toledo-Cincinnati division first-lien and refunding mortgage 6 per cent bonds, series C, for the purpose of pledging them, from time to time, as collateral security for any note or notes which it may issue within the limitations prescribed by paragraph (9) of section 20a without our authorization having first been obtained.

The Toledo & Cincinnati Railroad Company, a subsidiary of the Baltimore & Ohio Railroad Company, organized for the purpose of engaging in transportation by railroad in interstate commerce and controlled by the last-named company through ownership of its entire capital stock, has filed an intervening application for authority to issue \$2,447,000 of its first and refunding mortgage 6 per cent bonds, series C, to the Baltimore & Ohio Railroad Company for pledge by it with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage.

70 L. C. C.

No objection has been made to the granting of either application.

The first and refunding mortgage made by the Toledo & Cincinnati Railroad Company to the Bankers Trust Company under date of June 25, 1917, authorizes bonds, bearing interest at a rate not exceeding 6 per cent per annum and maturing not earlier than July 1, 1959, to be issued to the Baltimore & Ohio Railroad Company in reimbursement of expenditures for additions and betterments made to its line of railroad by the parent company.

The Toledo-Cincinnati division first-lien and refunding mortgage, made by the parent company to the Bankers Trust Company under date of June 25, 1917, authorizes bonds, bearing interest at a rate not exceeding 6 per cent per annum and maturing not earlier than July 1, 1959, to be issued in respect of bonds issued by the subsidiary company and delivered to the trustee "to be held under the trusts and subject to the lien of this indenture."

It appears that during the period from July 17, 1917, to June 30, 1921, the parent company advanced to its subsidiary the sum of \$2,447,123.28 for additions and betterments to the latter company's line, for which the parent company has not heretofore been reimbursed. The applicants accordingly propose that the subsidiary company issue its bonds in the principal amount of \$2,447,000 to the parent company for pledge with the trustee under the latter company's mortgage, and that the parent company have authenticated and delivered to it a like amount of its own bonds, for pledge as collateral security for short-term notes as occasion may require.

We find that the proposed issue of first and refunding mortgage 6 per cent bonds, series C, by the Toledo & Cincinnati Railroad Company, and the proposed issue of Toledo-Cincinnati division first-lien and refunding mortgage 6 per cent bonds, series C, by the Baltimore & Ohio Railroad Company (*a*) are for lawful objects within their corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by the Baltimore & Ohio Railroad Company of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary for such purposes.

An appropriate order will be entered.

#### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:



*It is ordered,* That the Toledo & Cincinnati Railroad Company be, and it is hereby, authorized to issue not exceeding \$2,447,000, principal amount, of first and refunding mortgage bonds, series C, under and pursuant to, and to be secured by, the first and refunding mortgage dated June 25, 1917, made by it to the Bankers Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1 in each year, and to mature July 1, 1959; said bonds to be delivered to the Baltimore & Ohio Railroad Company, and pledged by it with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage.

*It is further ordered,* That the Baltimore & Ohio Railroad Company be, and it is hereby, authorized to issue not exceeding \$2,447,000, principal amount, of Toledo-Cincinnati division first-lien and refunding mortgage bonds, series C, under and pursuant to, and to be secured by, the Toledo-Cincinnati division first-lien and refunding mortgage dated June 25, 1917, made by it to the Bankers Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1 in each year and to mature July 1, 1959; said bonds, or any part thereof, to be pledged and repledged, from time to time, until otherwise ordered by this commission, as collateral security for any note or notes it may issue within the limitations prescribed by paragraph (9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained; said pledge or pledges to be in the ratio of not exceeding \$125 of bonds in value at their prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is further ordered,* That, except as herein authorized to be issued and pledged, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicants, or either of them, unless and until so authorized by this commission.

*It is further ordered,* That the Toledo & Cincinnati Railroad Company shall report to this commission, within 10 days thereafter, all pertinent facts relating to the issue of bonds by it to the Baltimore & Ohio Railroad Company as herein authorized; such report to be signed and verified by one of its executive officers having knowledge of the facts.

*It is further ordered,* That the Baltimore & Ohio Railroad Company shall report to this commission, within 10 days thereafter, respectively, all pertinent facts relating to (1) the delivery of bonds to it by the Toledo & Cincinnati Railroad Company, as herein authorized, (2) the pledge thereof with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage, and (3) the authentication and delivery of bonds to it by said trustee in respect



thereof; such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*It is further ordered,* That the Baltimore & Ohio Railroad Company, within 10 days after the pledge or repledge of any of its Toledo-Cincinnati division first-lien and refunding mortgage bonds as herein authorized, shall file with this commission certificates of notification to that effect; and within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered,* That nothing herein contained shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 1514.

IN THE MATTER OF THE APPLICATION OF THE LIBERTY-WHITE RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted August 23, 1921. Decided August 30, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in the counties of Pike and Amite, in the State of Mississippi.

*K. G. Price* for applicant. .

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

BY DIVISION 4:

The Liberty-White Railroad Company, a carrier by railroad subject to the interstate commerce act, filed an application on June 8, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of its line of railroad extending from Liberty to South McComb in the counties of Pike and Amite, Miss. The State authorities of Mississippi having made no representations in the matter, the case was submitted without formal hearing.

Applicant's line, as operated for many years, was about 50 miles in length. It never earned operating expenses, and the volume of traffic, both freight and passenger, has diminished each succeeding year. About two years ago under a receivership 25 miles of the line, extending from Tylertown to South McComb, were abandoned and the property was sold to pay demands of certain creditors. The entire line would have been dismantled had not interested parties believed that, from Liberty to South McComb, it could be operated profitably. They accordingly purchased that portion of the line. After \$19,500 in cash had been expended and an indebtedness of approximately \$30,000 incurred, this property was again placed in the hands of a receiver.

Statements by the receiver show that applicant is insolvent; that it has neither funds nor income with which to pay operating expenses, or to meet debts already incurred for labor, materials, and supplies; that its taxes, State and municipal, are past due; that its roadbed, tracks, equipment, and bridges are so seriously in need of repairs that the Mississippi Railroad Commission has declared the

line unsafe for operation and ordered all passenger trains to be discontinued; and that outstanding bonds, aggregating \$72,500, are due and no money is available with which to pay either interest or principal.

Present assets of the road are estimated by the receiver to be of the value of \$61,912.60. The receiver states that if the line should be dismantled, the material salvaged could probably be sold for an amount of money sufficient to pay taxes and other prior liens, and perhaps to pay something upon the bonds.

We find upon the facts presented that the present and future public convenience and necessity permit the abandonment of the line of railroad in question.

A certificate to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment, by the Liberty-White Railroad Company, of its line of railroad extending from Liberty to South McComb, and located in the counties of Pike and Amite, Miss., described in the application and report aforesaid.

*It is ordered,* That the said Liberty-White Railroad Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That the said Liberty-White Railroad Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

FINANCE DOCKET No. 1516.

IN THE MATTER OF THE APPLICATION OF THE PERE MARQUETTE RAILWAY COMPANY FOR AUTHORITY TO ACQUIRE CONTROL OF THE FLINT BELT RAILROAD COMPANY.

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*Submitted August 23, 1921. Decided August 30, 1921.*

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Acquisition by the Pere Marquette Railway Company of control of the Flint Belt Railroad Company by purchase of its capital stock approved and authorized.

*John C. Bills* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

BY DIVISION 4:

The Pere Marquette Railway Company, a common carrier by railroad subject to the interstate commerce act, hereinafter called the Marquette, on July 11, 1921, filed an application, pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing it to acquire control of the Flint Belt Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, hereinafter called the Flint, by purchase of the capital stock of said company. No representations have been made by the Michigan Public Utilities Commission or other State authorities either in favor of or against the granting of the application. A hearing was held upon this application as provided by law.

By our certificate of public convenience and necessity, dated August 4, 1921, in *Public-Convenience Certificate to Flint Belt R. R.*, 70 I. C. C., 292, we authorized the Flint to construct and operate a standard-gauge steam railroad approximately 8.25 miles long, extending from a point on the Marquette Railway about 0.25 mile south of the township line between Grand Blanc and Burton townships, and approximately 0.25 mile east of the section line between sections 32 and 33 in Burton township, thence north and northwesterly to a connection with the Marquette Railway near the quarter-section post between sections 29 and 30 of Genesee township, in Genesee County, Mich.

By our order, dated August 4, 1921, in *Stock of Flint Belt R. R.*, 70 I. C. C., 296, we authorized the Flint to sell for cash at not 70 I. C. C.

less than par, 10,000 shares of common capital stock of the par value of \$100, the proceeds of the sale thereof to be used solely in the construction and equipment of its line of railroad and as working capital for the operation thereof.

The Flint was organized for the purpose of constructing a belt line railroad at Flint, Mich., to serve the industries, present and prospective, of that city, and to furnish a cut-off by which certain trains of the Marquette might be operated around the congested portions of the city of Flint. It appears that the incorporators of the Flint are officials and employees of the Marquette and that it was organized with the intention of having it controlled by the Marquette. It is stated that the sale of the capital stock of the Flint is the only practicable method of securing funds with which to construct its line, that the Marquette is the only available purchaser of this stock, and that the Flint's railroad can not be built unless the Marquette is permitted to acquire its capital stock and thus furnish the money for its construction and initial operations. The Marquette proposes to buy substantially all of the stock to be issued by the Flint, paying therefor its par value in cash. The entire proceeds received by the Flint from the sale of its capital stock are to be applied to the construction and equipment of its railroad. The book value of the capital stock to be sold will equal the cost of the road and equipment, estimated at approximately \$1,000,000, plus the value of the right of way to be donated by the citizens of Flint, the value of which is estimated to be \$225,000. The applicant states that it has assured the citizens of Flint that it will operate the Flint's railroad as an open terminal, and this report is made in reliance upon that assurance.

Upon the facts presented we find that the acquisition by the Marquette of control of the Flint by the purchase for cash of not exceeding 10,000 shares of its capital stock at its par value of \$100 a share will be in the public interest. An order will be entered accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That acquisition by the Pere Marquette Railway Company of control of the Flint Belt Railroad Company, by purchase of its capital stock, as described in the application and report aforesaid, be, and the same is hereby, approved and authorized.

70 I. C. C.

## FINANCE DOCKET No. 1547.

## IN THE MATTER OF THE APPLICATION OF THE TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS FOR AUTHORITY TO PLEDGE BONDS.

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*Submitted August 17, 1921. Decided August 30, 1921.*

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Authority granted to pledge \$439,000 of general-mortgage 4 per cent gold bonds with the Secretary of the Treasury as collateral security for the faithful performance by the applicant of its contracts dated August 30, 1920, and December 17, 1920, relating to repayment to the United States of any excess of advances over the amount of guaranty which may be finally certified pursuant to the provisions of section 209 of the transportation act, 1920.

*F. M. Pierce* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Terminal Railroad Association of St. Louis, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to pledge \$439,000 of its general-mortgage 4 per cent bonds with the Secretary of the Treasury as collateral security for the faithful performance by the applicant of its contracts with him dated August 30, 1920, and December 17, 1920, respectively, relating to repayment to the United States of any excess of advances over the amount of guaranty which may be finally certified by us pursuant to the provisions of section 209 of the transportation act, 1920, such pledge of bonds to be in lieu of, and in substitution for, surety bonds heretofore given by the applicant to secure the performance of the aforesaid contracts, thereby enabling it to save the cost of the premiums thereon, amounting to \$1,425 per annum. No objection to the granting of the application has been made.

The bonds which the applicant proposes to pledge are part of the \$719,000 of general-mortgage 4 per cent bonds now in its treasury, which, under the authority contained in our order of June 18, 1921, in *Bonds of Terminal R. R. Asso. of St. Louis*, 67 I. C. C., 771, have been authenticated by the corporate trustee under the mortgage securing them and delivered to the applicant in respect of expenditures for capital purposes.

We find that the proposed pledge of bonds by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Terminal Railroad Association of St. Louis be, and it is hereby, authorized to pledge with the Secretary of the Treasury not exceeding \$439,000, aggregate principal amount, of its general-mortgage 4 per cent bonds, as collateral security for the faithful performance by it of its contracts dated August 30, 1920, and December 17, 1920, relating to repayment to the United States of any excess of advances over the amount of guaranty which may be finally certified by this commission pursuant to the provisions of section 209 of the transportation act, 1920, such pledge to be in lieu of, and in substitution for, surety bonds heretofore given by the applicant to secure the performance of said contracts.

*It is further ordered*, That, except as herein authorized to be pledged, said bonds shall not be sold, pledged, repledged or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating (1) to the pledge of said bonds, and (2) to their release from pledge; such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.



FINANCE DOCKET No. 1503.

IN THE MATTER OF THE APPLICATION OF THE BENNETTSVILLE & CHERAW RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted August 22, 1921. Decided August 31, 1921.*

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Certificate issued authorizing the abandonment of operation of a line of railroad in Marlboro, Dillon, and Marion Counties, S. C.

*J. J. Heckart* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

BY DIVISION 4:

The Bennettsville & Cheraw Railroad Company, a carrier by railroad subject to the interstate commerce act, filed an application on June 27, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of operation of a portion of its line of railroad located in the counties of Marlboro, Dillon, and Marion, S. C. No representations having been made by the State authorities of South Carolina, the case was submitted without formal hearing.

The line of railroad in question is 10.44 miles in length. It is a direct east-and-west extension between Brownsville and Sellers, S. C., traversing a territory sparsely settled, only slightly cultivated, and apparently incapable of industrial development. The only industry on or near the extension is the plant of the Tilghman Lumber Company at Sellers. The lumber company owns considerable large tracts of valuable timber land near applicant's line at Brownsville and along the route of the extension. A few hundred bales of cotton are produced annually along the line, but there has been practically no agricultural development of the adjacent country. Applicant points out that only 20 acres of land in that district have been placed under cultivation since the extension was built.

The line was constructed in 1911 to handle forest products of the Tilghman Lumber Company. Its total original cost was \$71,574.90. Additions and betterments have since been made to the extent of 70 I. C. C.

\$2,191.84. The only outstanding obligations of the applicant are \$150,000 of first-mortgage bonds, which are a lien upon applicant's entire line. The mortgage pursuant to which these bonds were issued provides for setting aside a sinking fund of \$3,000 a year, which is calculated to retire the bonds in 30 years. Applicant's balance sheet as of June 30, 1921, shows deposits to this fund of \$27,000, not including interest thereon. It is the judgment of the applicant, concurred in by the trustee of the bondholders, that abandonment of service on the extension in no way would diminish the value of the outstanding securities, but would enable applicant the more readily to meet its interest payments and provide for the sinking fund created to retire its bonds at maturity.

Applicant submits its balance sheets for each of the 10 years last past to demonstrate that the extension has been operated at a loss since it was opened for traffic. For the year ended February 28, 1921, the statistics show that the charges allocated to the 10.44 miles of line were \$20,774.19 and the gross revenue was \$4,163.95, indicating a net deficit of \$16,610.24. The total approximate loss during less than 10 years of operation is stated to be \$60,575.10.

An agreement has been made between the applicant and the Tilghman Lumber Company by which the latter, upon the suspension of operations by applicant, will take over, at a nominal rental, the extension and its equipment, operate them as a plant facility for a period of 10 years, and then return the same to applicant in as good condition as they are now. If conditions at the termination of the lease do not justify resumption of railroad operations by applicant, it proposes to remove the rails, sell the salvage, and pass the proceeds into the sinking fund. There appears to be no demand for continued service between Brownsville and Sellers over this line. Residents of the district traversed by this extension will not be seriously inconvenienced by the cessation of operations thereon; all of them live within 5 miles of Brownsville, on applicant's main line, or of Sellers, on the Atlantic Coast Line. The highways to both places are in fairly good condition.

Upon consideration of all the facts we find that the present and future public convenience and necessity permit the abandonment of operation of the 10.44 miles of line in question.

A certificate to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions

thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment, by the Bennettsville & Cheraw Railroad Company, of operation of its line of railroad extending from Brownsville to Sellers, in the counties of Marlboro, Dillon, and Marion, S. C., described in the application and report aforesaid.

*It is ordered,* That the said Bennettsville & Cheraw Railroad Company be, and it is hereby, authorized to abandon the operation of said line of railroad.

*It is further ordered,* That the said Bennettsville & Cheraw Railroad Company, when filing schedules canceling tariffs applicable to said line of railroad, shall, in such schedules, make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1422.

IN THE MATTER OF THE APPLICATION OF THE EAST  
ST. LOUIS JUNCTION RAILROAD COMPANY FOR AU-  
THORITY TO ISSUE NOTES.

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*Submitted August 20, 1921. Decided September 1, 1921.*

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Authority granted to issue at par a demand note, or demand notes, in an aggregate face amount not exceeding \$92,000, payable to the St. Louis National Stock Yards, with interest at a rate not exceeding 7 per cent per annum.

*Albert H. Veeder and Henry Veeder* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The East St. Louis Junction Railroad Company, a common carrier by railroad engaged in interstate commerce, by original application and an amendment thereto, has duly applied for authority under section 20a of the interstate commerce act to issue its promissory note, or notes, payable on demand, in an aggregate amount of \$92,000. No objection to the granting of the application has been made.

In the original application it was stated that the applicant had incurred an indebtedness of \$85,000 to the St. Louis National Stock Yards on account of advances made by that company to meet the applicant's pay rolls for the year 1920, including back pay to engineers and firemen, the result of arbitration, and back pay of other employees, awarded by the Railroad Labor Board. According to an amendment filed August 20, 1921, the applicant is now asking authority to issue a promissory note, or notes, for \$92,000, the additional amount being for advances made in 1921.

To cover these advances the applicant proposes to issue at par its promissory note, or notes, payable on demand to the St. Louis National Stock Yards for the aggregate amount of \$92,000, with interest at a rate not exceeding 7 per cent per annum.

The proposed note, or notes, will amount to more than 5 per cent of the par value of the applicant's outstanding securities.

We find that the issue of the proposed note, or notes, by the applicant (a) is for a lawful object within its corporate purposes, and

compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the East St. Louis Junction Railroad Company be, and it is hereby, authorized to issue at par its promissory note, or notes, in an aggregate face amount not exceeding \$92,000, payable on demand to the St. Louis National Stock Yards with interest at a rate not exceeding 7 per cent per annum; said note, or notes, to be used for the purpose set forth in the application.

*It is further ordered*, That, except as herein authorized, said note, or notes, shall not be sold, pledged, repledged, or otherwise disposed of by the applicant unless and until so authorized by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the issue of said note, or notes; and (2) the payment or other satisfaction of said note, or notes; each of said reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said note, or notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1548.

## IN THE MATTER OF THE APPLICATION OF THE CAMBRIA &amp; INDIANA RAILROAD COMPANY FOR AUTHORITY TO ISSUE A NOTE AND TO PLEDGE BONDS.

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*Submitted August 24, 1921. Decided September 1, 1921.*

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Authority granted (1) to issue a one-year 7 per cent promissory note for \$500,000, said note to be sold at not less than 99 per cent of par and accrued interest and the proceeds applied toward the payment of \$800,000 of two-year gold notes; and (2) to pledge as collateral security therefor \$750,000 of series-A 6 per cent general-mortgage bonds.

*B. Dawson Coleman* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Cambria & Indiana Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue a one-year 7 per cent promissory note for \$500,000, the proceeds to be applied toward the payment of certain two-year gold notes issued by it, which have matured, and to pledge as collateral security for the proposed note \$750,000 of its series-A 6 per cent general-mortgage bonds. No objection has been made to the granting of the application.

The applicant now has outstanding \$800,000 of two-year 6 per cent gold notes which matured on August 1, 1921. On July 27, 1921, by our certificate No. 108, in *Loan to Cambria & Indiana R. R.*, 70 I. C. C., 212, 213, we approved a loan of \$250,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended. That sum, together with the proceeds of the proposed note and other funds which the applicant has available, will be used to pay these notes.

The applicant has arranged with the Franklin Securities Corporation of Philadelphia for the latter to purchase the proposed note at a net price to the applicant of 99 per cent of its par value and accrued interest, after deduction of all attorney's fees and other expenses in connection with the making and execution of the note and the sale thereof. At that price the total cost to the applicant will be 8.0808 per cent per annum on the proceeds of the note.

The proposed note is to be dated August 1, 1921, payable to the order of the Franklin Securities Corporation of Philadelphia one year after date, with interest at the rate of 7 per cent per annum, and in the form submitted with the application. It and all other outstanding notes of the applicant of maturity of two years or less will together aggregate more than 5 per cent of the par value of the applicant's outstanding securities.

The applicant proposes to pledge as security for this note with the holder thereof \$750,000 of its series-A 6 per cent general-mortgage bonds maturing August 1, 1944, now held in its treasury or pledged as collateral security for the outstanding two-year gold notes. These bonds were issued prior to the effective date of section 20a in accordance with the terms of the mortgage given by the applicant to the Girard Trust Company, trustee, under date of August 1, 1919.

We find that the issue of the proposed promissory note and the proposed pledge of general-mortgage bonds by the applicant as aforesaid (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this application having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Cambria & Indiana Railroad Company be, and it is hereby, authorized to issue under date of August 1, 1921, a promissory note for not exceeding \$500,000, face amount, payable to the order of the Franklin Securities Corporation one year after date, with interest at the rate of 7 per cent per annum, payable semi-annually on February 1 and August 1, 1922; said note to be substantially in the form submitted with the application, to be sold to said Franklin Securities Corporation at not less than 99 per cent of par and accrued interest, and the proceeds thereof to be applied toward payment of \$800,000, aggregate face amount, of the applicant's two-year gold notes which matured August 1, 1921.

*It is further ordered*, That the Cambria & Indiana Railroad Company be, and it is hereby, authorized to pledge as collateral security for the note herein authorized to be issued, not exceeding \$750,000,



principal amount, of series-A 6 per cent general-mortgage bonds issued under and pursuant to and secured by the general mortgage dated August 1, 1919, made by the applicant to the Girard Trust Company.

*It is further ordered*, That, except as herein authorized to be issued and pledged, said note and bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days thereafter, respectively, the applicant shall report to this commission all pertinent facts relating to (1) the sale of said note and the pledge of said bonds; (2) the application of the proceeds of said note and the cancellation of the two-year 6 per cent gold notes; (3) the payment or satisfaction of said note; and (4) the release of said bonds from pledge; said reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein contained shall be construed to imply any guaranty or obligation as to said note or bonds, or the interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1472.

**IN THE MATTER OF THE APPLICATION OF THE MISSISSIPPI CENTRAL RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR AUTHORITY TO ACQUIRE CONTROL OF A BRANCH OF THE GULF, MOBILE & NORTHERN RAILROAD.**

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*Submitted August 8, 1921. Decided September 2, 1921.*

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1. Certificate issued authorizing (a) the abandonment of a branch line of railroad in Forrest County, Miss., and (b) the abandonment of operation of a portion of a line of railroad in the city of Hattiesburg, Miss.
2. Acquisition of control of a branch line of railroad between Beaumont and Hattiesburg, Miss., by lease, approved and authorized.

*T. Brady, jr.*, for applicant.

**REPORT OF THE COMMISSION.****DIVISION 4, COMMISSIONERS DANIELS AND POTTER.****BY DIVISION 4:**

The Mississippi Central Railroad Company, a carrier by railroad engaged in the transportation of passengers and property subject to the interstate commerce act, on June 9, 1921, filed an application (a) for a certificate that the present and future public convenience and necessity permit the abandonment of its branch line of railroad extending from Hattiesburg, Miss., in a southerly direction a distance of 11.74 miles, all in Forrest County, Miss.; (b) for an order authorizing the applicant to acquire by lease the control of a branch line of the Gulf, Mobile & Northern Railroad Company, hereinafter termed the Gulf, extending from Beaumont, Miss., to Hattiesburg, Miss., a distance of 26 miles; and (c) for a certificate that the present and future public convenience and necessity permit the abandonment of operation of that part of said line to be leased which lies between the intersection of said branch with applicant's line and the connection of said branch with the New Orleans & Northeastern Railroad, a distance of 1.89 miles, all in the city of Hattiesburg. A hearing was held as required by law.

The applicant operates a line of railroad extending from Hattiesburg in a westerly direction to Natchez, Miss., a distance of 150  
70 I. C. C.

miles. In 1903 the applicant undertook the construction of a line of railroad from Hattiesburg in a southeasterly direction, with a view of eventually extending it to the Gulf of Mexico; but after building 13 miles it abandoned the remainder of the project. Prior to the war no traffic was available over this branch, but during Federal control a regular service was furnished for the purpose of moving Government material to the training camp known as Camp Shelby. There is now no demand for continued service except for removing the salvage from Camp Shelby, which is being dismantled. The applicant agrees to continue such service for that purpose until January 20, 1922, at which time the local authorities estimate that all camp material will have been removed. There is no demand for the service for any other purpose. The Mississippi Railroad Commission recommends that the application be granted, subject to the continuance on the 13 miles south of Hattiesburg, of service for the purpose and during the period above stated.

The proposed agreement between the applicant and the Gulf is contained in two contracts, one providing for the use by the applicant under trackage rights of the main line of the Gulf between Beaumont and Mobile, and the other being embodied in the lease of which our approval is sought. The trackage agreement is to continue for three years, and thereafter until termination by either party on 12 months' notice to the other. The term of the proposed lease is to coincide with the duration of the trackage contract. The applicant, as lessee, is to pay the Gulf a gross rental of \$19,500 per year for the use of the branch line and terminals, and in addition is to pay the taxes assessed against the leased property and protect the lessor against claims and liabilities arising from its operation. All additions and betterments are to be made at the expense of the applicant, which is to be reimbursed therefor at the end of the term on the basis of the actual cost of such additions and betterments, less depreciation. Maintenance charges will be paid by the applicant as a part of its operating expenses.

Under the proposed arrangement the applicant will connect its tracks with the leased line at a point about 2 miles south of Hattiesburg and will operate into the city over its own rails, using its own freight station and the passenger station of the Gulf & Ship Island Railroad Company. The station facilities of the New Orleans & Northeastern Railroad Company, now used by the Gulf, will thus be no longer needed, and there will be no necessity for operating regular trains over the 1.89 miles of main line of the Gulf which lies between its connections with the New Orleans & Northeastern Railroad and with the applicant's rails. That piece of track, however, will be used by the applicant for industrial switching and for storage of cars.

The applicant points out that the proposed arrangement will permit the operation of its through freight trains from Natchez to Mobile and through passenger service from Natchez to Beaumont, with facilities for extending the latter service to Mobile, if desirable. Thus the plan is expected to provide a shorter line and a faster service, as well as to improve the present service afforded by the applicant. It is pointed out that most of the traffic between Shreveport and Mobile now moves south to New Orleans, where it must pass through a congested terminal, and thence over the Louisville & Nashville Railroad to Mobile. With the proposed arrangement this traffic will, it is stated, move in large volume from Shreveport over the Louisiana & Arkansas Railroad to Vidalia, La., and across the Mississippi River on barges to Natchez, where it will be taken by the applicant, thereby permitting a schedule of 42.5 hours from Shreveport to Mobile. It is expected that about 20 cars a day from west to east will be moved over this route as soon as it is opened. The east-to-west movement will be in smaller volume. The arrangement will be of benefit to the Gulf in that its branch-line service will be eliminated, as well as the rental it now pays for terminal facilities at Hattiesburg. The public will benefit locally by the substitution of applicant's main-line service for the present service of the Gulf, and of its passenger-station facilities at Hattiesburg for those now leased by the Gulf from the New Orleans & Northeastern Railroad.

On the facts presented we find (a) that the future public convenience and necessity will permit the abandonment, on or after January 20, 1922, of the applicant's branch line extending in a southeasterly direction from Hattiesburg; (b) that the acquisition by the applicant of control of the Hattiesburg branch of the Gulf, by lease, as herein set forth, will be in the public interest; and (c) that upon the entry into possession by applicant of the leased property, the present and future public convenience and necessity permit the abandonment of operation of the 1.89 miles of leased line in Hattiesburg as hereinbefore described. An appropriate certificate and order will be entered.

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*Certificate and Order.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the public convenience and necessity permit the abandonment by the Mississippi Central Railroad Company, on or after the 20th day of January, 1922, of its branch line of railroad extending in a southerly direction from Hattiesburg, Miss., and the abandonment by the said railroad company of the operation of 1.89 miles of railroad in said city of Hattiesburg, leased from the Gulf, Mobile & Northern Railroad Company, as described in the application and report aforesaid.

*It is ordered,* That said Mississippi Central Railroad Company be, and it is hereby, authorized to abandon said branch line of railroad extending in a southerly direction from Hattiesburg, Miss., on or after the 20th day of January, 1922, and to abandon operation of said 1.89 miles of leased railroad in the city of Hattiesburg.

*It is further ordered,* That the acquisition by the Mississippi Central Railroad Company of control of the Hattiesburg branch of the Gulf, Mobile & Northern Railroad Company by and under a lease, as described in said report, be, and it is hereby, approved and authorized.

*And it is further ordered,* That said Mississippi Central Railroad Company, when filing schedules canceling, establishing, or adopting tariffs relating to any of the lines involved in this proceeding, shall in such schedules make specific reference to this certificate and order by title, date, and docket number.

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## FINANCE DOCKET No. 1555.

## IN THE MATTER OF THE APPLICATION OF THE ARANSAS HARBOR TERMINAL RAILWAY FOR AUTHORITY TO ISSUE PRIOR-LIEN NOTES.

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*Submitted August 25, 1921. Decided September 2, 1921.*

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Authority granted to issue \$50,000 of prior-lien five-year gold notes, bearing interest at the rate of 6 per cent per annum; said notes to be pledged with the Secretary of the Treasury as security for a loan from the United States.

*J. D. Wheeler* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Aransas Harbor Terminal Railway, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$50,000 of prior-lien five-year gold notes for pledge with the Secretary of the Treasury as collateral security for a loan from the United States. No objection to the granting of the application has been made.

By our amended certificate No. 3, in *Loan to Aransas Harbor Terminal Ry.*, 70 I. C. C., 203, we approved the making of a loan of \$50,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended, for the purpose of aiding the applicant in making certain repairs to its railway necessitated by damage caused by a hurricane on September 14, 1914. It is required that the applicant pledge \$50,000 of prior-lien five-year notes with the Secretary of the Treasury as collateral security for the loan.

Under a first mortgage dated March 23, 1896, to the Maryland Trust Company, the applicant issued \$24,000 of 6 per cent bonds, maturing April 1, 1921, of which \$18,000 are still outstanding, being owned by Alex. Brown & Sons, a partnership firm, of Baltimore, Md. Under another mortgage, also denominated a first mortgage, dated February 1, 1915, to the same trustee, which authorized the issue of \$2,000,000 of 6 per cent bonds, maturing February 1, 1945, there are now \$522,000 of bonds outstanding, \$276,000 of which are owned by Alex. Brown & Sons, and \$246,000 of which are pledged

with that firm to secure the payment of certain indebtedness of the applicant.

The proposed prior-lien notes will be secured by a mortgage to be made by the applicant to the Maryland Trust Company under date of August 1, 1921; and in order that the lien created thereby shall be superior to any and all other liens on the property it covers, the holders of the outstanding bonds, the trustee under the mortgages securing them, and the applicant will enter into an agreement under date of August 1, 1921, in which the holders of said bonds—

expressly waive, in favor of said notes and the mortgage to be executed by Railway securing said notes, all liens which they have by reason of being the holders of \$18,000 in bonds issued under the mortgage of 1896, and of \$276,000 in bonds issued under the mortgage of 1915, and by reason of being the pledgees of the remainder of the bonds issued under the mortgage of 1915, being \$246,000 of said bonds, and agree that the lien to be created by the mortgage to be executed by Railway of date August 1, 1921, shall constitute an absolute first lien on all property of Railway owned by it at the date of the execution of said mortgage, and also on all property thereafter to be acquired by it.

We find that the issue of the proposed prior-lien notes by the applicant (*a*) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Aransas Harbor Terminal Railway be, and it is hereby, authorized to issue its prior lien five-year gold notes in an aggregate face amount not exceeding \$50,000, under and pursuant to, and to be secured by, a proposed indenture of mortgage dated August 1, 1921, to be made by the applicant to the Maryland Trust Company; said notes to be payable to bearer or registered holder, to bear interest at the rate of 6 per cent per annum, payable semiannually on February 1 and August 1 in each year, and to mature on August 1, 1926; said notes to be pledged with the Secretary of the Treasury as collateral security for a loan of \$50,000 to the applicant from the United States under section 210



of the transportation act, 1920, as amended, as specified in this commission's amended certificate No. 3, dated September 2, 1921, in Finance Docket No. 920.

*It is further ordered*, That, except as herein authorized to be pledged, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days after the execution and delivery of said proposed indenture of mortgage and of the agreement of August 1, 1921, mentioned in said report, the applicant shall file with this commission authenticated copies thereof in the form in which executed.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the issue, pledge, release from pledge, and cancellation of said notes; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 101.

## IN THE MATTER OF SETTLEMENT WITH THE RECEIVER OF THE ALABAMA &amp; MISSISSIPPI RAILROAD COMPANY UNDER SECTION 204 OF THE TRANSPORTATION ACT, 1920.

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*Submitted October 12, 1920. Decided September 6, 1921.*

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1. The Alabama & Mississippi Railroad Company (R. V. Taylor, receiver) is subject to section 204 of the transportation act, 1920.
2. The amount payable to the Alabama & Mississippi Railroad Company (R. V. Taylor, receiver) under the provisions of paragraphs (f) and (g) of section 204, is ascertained to be \$60,295.21, which will be certified in partial liquidation of an amount of \$87,751.12, due from said Alabama & Mississippi Railroad Company (R. V. Taylor, receiver) to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness. Certificate issued.

*R. V. Taylor* for the carrier.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Alabama & Mississippi Railroad Company, a corporation of the States of Alabama and Mississippi, hereinafter termed the carrier, is a steam-railroad company which, during the Federal control period, engaged as a common carrier in general transportation, operating between Vinegar Bend, Ala., and Pascagoula, Miss., a distance of approximately 77.75 miles, its lines connecting at Vinegar Bend with the Mobile & Ohio Railroad; at Evanston, Miss., with the Gulf, Mobile & Northern Railroad; and at Pascagoula with the Louisville & Nashville Railroad, lines of railway or systems of transportation under Federal control. It sustained a deficit in its railway operating income while under private operation in the Federal control period. It was, therefore, a carrier within the meaning of paragraph (a) of section 204 of the transportation act, 1920. R. V. Taylor was appointed receiver as of March 17, 1921, by the United States District Court, Southern District of Mississippi.

The carrier was under Federal control from January 1 to June 21, 1918, inclusive, and is subject to the provisions of section 204 for the

period from June 22, 1918, to February 29, 1920, inclusive. It had a cooperative contract with the director general. The return of the carrier under our circular of March 4, 1920, indicated a net credit to the carrier for the period June 22, 1918, to February 29, 1920, inclusive, of \$60,334.21, but we have ascertained that the amount subject to reimbursement for that period is \$60,295.21. The operated mileage during both the Federal control period and the test period was approximately 77.75 miles.

Consideration has been given to the adjustment of maintenance charges. Applying, so far as practicable, the rule set forth in the proviso of paragraph (a) of section 5 of the standard contract between the director general and the carriers under Federal control, we have fixed the maintenance allowance at the amount charged by the carrier.

We find a net credit of \$60,295.21 due the carrier under section 204 in reimbursement of deficits during Federal control, which will be certified in partial liquidation of an amount of \$87,751.12 due from the carrier to the President, as operator of the transportation systems under Federal control, on account of traffic balances and other indebtedness. We are duly authorized by the court to certify the amount due the carrier under section 204 for payment to R. V. Taylor as receiver. The receiver has expressed his willingness to accept the amount thus determined by us in final settlement of all claims against the United States under section 204.

An appropriate certificate will be issued.

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*Certificate No. B-67 under Section 204 of the Transportation Act, 1920.*

TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:

1. The Interstate Commerce Commission, hereinafter termed the commission, hereby certifies that the Alabama & Mississippi Railroad Company (R. V. Taylor, receiver), hereinafter termed the carrier, is a corporation of the States of Alabama and Mississippi and is a carrier as defined under section 204 of the transportation act, 1920. The commission further certifies that the carrier sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation, and hereby certifies that under the provisions of paragraphs (f) and (g) of said section

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204 the amount payable to the Alabama & Mississippi Railroad Company (R. V. Taylor, receiver) is \$60,295.21.

2. The commission also certifies that the amount due from the carrier to the President (as operator of the transportation systems under Federal control) on account of traffic balances or other indebtedness is \$87,751.12.

Dated this 6th day of September, 1921.

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FINANCE DOCKET No. 255.

IN THE MATTER OF SETTLEMENT WITH THE RECEIVER OF THE ALABAMA & MISSISSIPPI RAILROAD COMPANY UNDER SECTION 209 OF THE TRANSPORTATION ACT, 1920.

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*Submitted October 14, 1920. Decided September 6, 1921.*

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Amount necessary to make good the guaranty of section 209 of the transportation act, 1920, to the Alabama & Mississippi Railroad Company (R. V. Taylor, receiver) ascertained to be \$16,543.61. Certificate issued.

*R. V. Taylor* for the carrier.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Alabama & Mississippi Railroad Company, hereinafter termed the carrier, is a steam-railroad company which, during the guaranty period, engaged as a common carrier in general transportation in the States of Alabama and Mississippi. The carrier's line of railroad was under Federal control during the entire period of Federal control from January 1, 1918, to February 29, 1920, inclusive, and is, therefore, a carrier within the meaning of paragraph (a) of section 209 of the transportation act, 1920. The carrier on March 8, 1920, filed with us a written statement accepting the provisions of section 209.

The returns of the carrier under our orders of October 18, 1920, and January 5, 1921, have been examined, and it has been ascertained that the debits and credits from the accounts called in the monthly reports to us "equipment rents" and "joint facility rents" have been included, and that there are included no debits or credits arising from the operation of street railways or interurbans not under Federal control at the termination thereof. Proper adjustments have been made for the difference in mileage under operation between the average for the test period, 51.25 miles, and that of the guaranty period, 77.75 miles. In fixing the amounts to be allowed for maintenance in the guaranty period, we applied the rule set forth in the proviso in paragraph (a) of section 5 of the standard contract between the United States and the carrier, so far as practicable. It has also been ascertained that there were not included any so-called war taxes in arriving at the net railway oper-

ating income for either the test or the guaranty period, and that there are no eliminations necessary due to disproportionate or unreasonable charges, or charges attributable to another period. Consideration was given to the matter of deferred debits and credits subject to estimate by us and agreement by the carrier under the provisions of paragraph (b) of section 212 of the transportation act, 1920, as amended, and it was developed that there were no such items. As a result of our investigation, it is ascertained that the amount necessary to make good the guaranty to the carrier is \$16,543.61, as shown by the following statement:

**Basis of claim:**

Net deficit in railway operating income for test period	\$13,314. 11	
One-half amount of annual compensation under Federal control act-----	3,204. 78	
Total amount claimed-----		\$16,518. 89

**Adjustments:**

Standard return for six months as claimed by carrier	\$3,204. 78	
Standard return for six months as determined by the commission -----	3,229. 50	
Addition for standard return-----		24. 72
Amount claimed for maintenance of way and structures and for maintenance of equipment-----	\$30,727. 98	
Amount allowed for maintenance of way and structures and for maintenance of equipment-----	30,727. 98	

Amount necessary to make good the guaranty-----	16,543. 61
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No certificates for advances under section 209 (h), or for partial payments under section 209 (g), as amended by section 212, have been issued by us in favor of this carrier.

The amount necessary to make good the guaranty to the Alabama & Mississippi Railroad Company is therefore ascertained to be \$16,543.61. On March 17, 1921, R. V. Taylor was appointed receiver of the carrier, and we are duly authorized by order of the court to certify any amount due the carrier for payment to the receiver. An appropriate certificate will be issued.

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*Certificate No. A-599 under Section 209 (g) of the Transportation Act, 1920.*

**TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:**

1. The Interstate Commerce Commission, hereinafter called the commission, hereby certifies that the Alabama & Mississippi Railroad Company (R. V. Taylor, receiver), a corporation of the States of Alabama and Mississippi, hereinafter called the carrier, is a carrier as defined in paragraph (a) of section 209 of the transportation act, 1920; that the carrier filed with the commission on or before March

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15, 1920, a written statement that it accepted all of the provisions of the said section 209.

2. The commission has ascertained and hereby certifies to the Secretary of the Treasury that the amount of \$16,543.61 is necessary to make good to said carrier the guaranty provided by section 209 of the transportation act, 1920.

3. The commission has made final determination, as aforesaid, of the amount of the guaranty provided for by section 209 of the transportation act, 1920.

Dated this 6th day of September, 1921.

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## FINANCE DOCKET No. 1533.

IN THE MATTER OF THE APPLICATION OF THE GREAT  
NORTHERN RAILWAY COMPANY FOR AUTHORITY TO  
SUBSTITUTE COLLATERAL SECURITY IN CONNEC-  
TION WITH A LOAN FROM THE UNITED STATES.

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*Submitted August 3, 1921. Decided September 7, 1921.*

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Authority granted to substitute general-mortgage bonds in lieu of first and refunding mortgage bonds pledged as collateral security for a loan from the United States.

*E. C. Lindley* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

On July 28, 1920, we issued to the Secretary of the Treasury our certificate No. 13, in *Loan to Great Northern Ry.*, 65 I. C. C., 78, approving a loan of \$17,910,000, in three parts, to the Great Northern Railway Company, hereinafter referred to as the applicant, as follows:

For equipment.....	\$2, 010, 000
For additions and betterments.....	900, 000
For maturing indebtedness.....	15, 000, 000

Pursuant to the provisions of our certificate, that part of the loan for maturing indebtedness, \$15,000,000, was to be repaid one year from the making thereof, and the remaining parts of the loan were to be repaid serially over a period of 15 years from the making thereof.

By our amendment to certificate No. 13, of October 8, 1920, we provided that the security for the entire loan should consist of \$24,199,500 of applicant's first and refunding mortgage 50-year 4½ per cent gold bonds, due July 1, 1961.

On July 26, 1921, the applicant made application to us for a loan of \$15,000,000 by the United States in accordance with said section 210, for the purpose of enabling the applicant to repay the afore-said part of the loan made pursuant to our certificate No. 13 for maturing indebtedness due August 30, 1921, and in said application the applicant also requested authority to substitute for \$24,200,000 of applicant's first and refunding mortgage bonds, pledged as se-

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curity for the entire loan made pursuant to our certificate No. 13, \$22,500,000 of applicant's general-mortgage series-A 7 per cent gold bonds, due July 1, 1936.

On August 23, 1921, pursuant to said application of July 26, 1921, we issued to the Secretary of the Treasury our certificate No. 101, *Loan to Great Northern Ry.*, 70 I. C. C., 335, approving a loan of \$15,000,000 for the purpose aforesaid, which loan was made by the Secretary of the Treasury to the applicant on August 30, 1921, on which date also the applicant repaid to the United States the aforesaid loan of like amount made pursuant to our certificate No. 13. As security for said loan we required to be pledged with the Secretary of the Treasury \$18,844,000 of the general-mortgage bonds of the applicant, and there was released to the applicant upon the repayment aforesaid \$20,268,000 of the first and refunding bonds of the applicant.

Therefore, by virtue of these transactions, of the total loan made pursuant to our certificate No. 13, as amended and supplemented, there now remains outstanding and unpaid the sum of \$2,910,000, secured by \$3,932,000 of the first and refunding bonds of applicant, for which bonds the applicant desires to substitute in pledge \$3,656,000 of its general-mortgage bonds.

After investigation, we find that the authority requested for substitution of collateral security, as aforesaid, should be granted.

An appropriate certificate of amendment will be issued.

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*Amendment to Certificate No. 13 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby further amends its amended certificate No. 13 of August 27, 1920, for a loan of \$17,910,000 to the Great Northern Railway Company, hereinafter referred to as the applicant, under section 210 of the transportation act, 1920, as amended, by authorizing the pledge in lieu of, and in substitution for, the collateral now pledged as security for the loan. consisting of \$3,932,000, principal amount, of applicant's first and refunding mortgage 50-year 4½ per cent gold bonds, due July 1, 1961, the following-described securities:

Applicant's general-mortgage series-A 7 per cent gold bonds, due July 1, 1936, \$3,656,000, principal amount, issued under an indenture of mortgage, dated January 1, 1921, executed and delivered by the applicant to the First National Bank of the City of New York, as trustee. Said bonds are in temporary form, without coupons, exchangeable for definitive coupon bonds of the same series, same ag-  
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aggregate principal amount, substantially identical in tenor and of authorized denominations, when prepared. Said temporary bonds are numbered and of principal amounts, as follows:

	Denomination.	Amount.
2 bonds, Nos. TB-14 and TB-15-----	\$1,000,000	\$2,000,000
2 bonds, Nos. TB-16 and TB-17-----	500,000	1,000,000
3 bonds, Nos. TB-18, TB-19, and TB-20-----	100,000	300,000
356 bonds, Nos. TM-109010 to TM-109365-----	1,000	356,000
Total -----		3,656,000

Done in Washington, D. C., this 20th day of September, 1921.

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FINANCE DOCKET No. 1479.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL NEW ENGLAND RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted September 3, 1921. Decided September 8, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in Hampden County, Mass.

*E. G. Buckland* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

BY DIVISION 4:

The Central New England Railway Company, a carrier by railroad subject to the interstate commerce act, on June 15, 1921, filed an application for a certificate that the present and future public convenience and necessity permit the abandonment of a line of the applicant's railroad extending from the station of Feeding Hills in the town of Agawam to a point where said line connects with the Boston & Albany Railroad, both in Hampden County, Mass., a distance of approximately 1.87 miles. No representations were made by the authorities of the State of Massachusetts either for or against the granting of the application. The case was submitted without formal hearing.

The applicant owns and operates about 300 miles of track in its entire system. Its trains enter Springfield, a city of more than 100,000 inhabitants, by using 4.05 miles of track of the Boston & Albany Railroad. Under the trackage agreement the applicant is to pay the Boston & Albany Railroad Company \$15,000 a year for the right to operate over this track not more than three freight trains of 30 cars each and three passenger trains daily. This agreement expires August 30, 1940.

The applicant proposes to abandon about 1.87 miles of track extending from Agawam to its connection with the Boston & Albany. The traffic is very light over this line; it is handled in one mixed train a day at the present time and it is not likely to increase in the near future. From Agawam an electric line runs directly into

Springfield, hauling passengers and light freight. For the year 1920 the revenue derived from the line proposed to be abandoned was \$2,686.04, and the operating expenses were \$41,518.62, resulting in an operating loss of \$38,832.58.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the line in question. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Central New England Railway Company of its line of railroad extending from the station of Feeding Hills in the town of Agawam to a point where said line connects with the Boston & Albany Railroad, both in Massachusetts, as described in the application and report aforesaid.

*It is ordered,* That said Central New England Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Central New England Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

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## FINANCE DOCKET No. 1557.

## IN THE MATTER OF THE APPLICATION OF THE CENTRAL VERMONT RAILWAY COMPANY FOR AUTHORITY TO PROCURE AUTHENTICATION AND DELIVERY OF BONDS AND TO SELL OR TO PLEDGE SAME.

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*Submitted August 25, 1921. Decided September 9, 1921.*

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1. Authority granted to procure authentication and delivery to applicant's treasurer of \$147,000 of refunding-mortgage 5 per cent gold bonds, to be held in the treasury until the further order of the commission.
2. Record insufficient to justify further authorization.

*E. C. Smith* for applicant.

## REPORT OF THE COMMISSION.

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Central Vermont Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to procure authentication and delivery to its treasurer by the trustee of \$147,000 of refunding-mortgage 5 per cent gold bonds, and to sell or to pledge these bonds. No objection to the granting of the application has been offered.

Disposition of that portion of the application which seeks authority to sell or to pledge the said bonds can not be made on the present record, inasmuch as no information has been furnished by the applicant as to (1) the price or other terms of the proposed sale of these bonds, or arrangements for any such sale thereof; (2) the amount, terms, and conditions of any note or notes as collateral security for which these bonds would be pledged, or arrangements for the issue of any such notes; and (3) the arrangements for the proposed pledge of these bonds.

The mortgage securing the refunding-mortgage 5 per cent gold bonds was made by the applicant to the New York Trust Company, trustee, under date of March 15, 1920, and authorizes an issue of bonds not to exceed \$15,000,000. Under the terms of the mortgage, \$12,000,000 of these bonds are to be used to retire a like amount of the applicant's 4 per cent first-mortgage gold bonds which matured

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on May 1, 1920, and the remaining \$3,000,000 are reserved to pay and discharge accrued indebtedness to the Grand Trunk Railway Company of Canada, and for other corporate purposes.

By our order dated August 25, 1920, and supplemental order dated December 15, 1920, in *Bonds of Central Vermont Ry.*, 65 I. C. C., 126, 473, we authorized the issue of \$12,000,000 of bonds for the refunding purpose set forth above; and also authorized the issue of a further amount of \$1,359,000 of refunding bonds for the purpose of paying and satisfying in full the applicant's indebtedness to the Grand Trunk Railway Company in like amount. By our order dated May 28, 1921, in *Bonds of Central Vermont Ry.*, 67 I. C. C., 681, we authorized the pledge and repledge of a further amount of \$100,000 of refunding bonds as collateral security for any note or notes which may be issued by the applicant under paragraph (9) of section 20a of the interstate commerce act. The remaining bonds, authorized under the mortgage, amounting to \$1,541,000, have not been authenticated and delivered by the trustee to the treasurer of the applicant.

The applicant now seeks authority to have authenticated and delivered to its treasurer \$147,000 of the remaining refunding gold bonds, to reimburse its treasury for the expenditure therefrom of a like amount in payment of \$147,000 of equipment gold notes, series D, issued pursuant to an agreement of conditional sale dated February 23, 1912, as follows:

August 1, 1920-----	\$49, 000
February 1, 1921-----	49, 000
August 1, 1921-----	49, 000
Total-----	147, 000

The applicant states that by its payment of such equipment notes, the value of the equipment covered by the mortgage securing the refunding bonds was increased proportionally.

We find that the proposed procurement of authentication and delivery by the trustee to the applicant of its refunding 5 per cent gold bonds (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof,

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made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Central Vermont Railway Company be, and it is hereby, authorized, in order that it may reimburse its treasury for expenditures therefrom in payment of equipment gold notes, series D, to procure authentication and delivery by the trustee to its treasurer of \$147,000, principal amount, of its refunding-mortgage gold bonds under and pursuant to, and to be secured by, the refunding gold-bond mortgage, dated May 1, 1920, made by the applicant to the New York Trust Company, trustee; said bonds to bear interest at the rate of 5 per cent per annum payable semiannually on the 1st day of May and of November in each year, and to mature May 1, 1930, and when so authenticated and delivered by the trustee to be held in the treasury of the applicant.

*It is further ordered,* That the bonds herein authorized to be authenticated and delivered to the applicant's treasurer shall not, unless and until ordered by this commission, be sold, pledged, repledged, or otherwise disposed of by the applicant.

*It is further ordered,* That, within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the authentication and delivery of the said bonds to its treasurer; such report to be in writing and signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or the interest thereon, on the part of the United States.

## FINANCE DOCKET No. 945.

IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS AND IN MEETING MATURING INDEBTEDNESS.

*Submitted September 10, 1921. Decided September 13, 1921.*

Authority granted applicant to modify that portion of loan for purchase of gondola cars approved by this commission in its report of May 12, 1921, so as to include the purchase of certain mikado locomotives. Previous report, 67 I. C. C., 569.

*M. L. Bell* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

On June 28, 1921, we issued to the Secretary of the Treasury our report and certificate No. 96, 67 I. C. C., 569, 576, approving a loan of \$1,568,540 by the United States to the National Railway Service Corporation, hereinafter referred to as the corporation, an organization approved, pursuant to the provisions of section 210 of the transportation act, 1920, as amended, by section 5 of the sundry civil appropriations act, approved June 5, 1920, for the purpose of aiding the Chicago, Rock Island & Pacific Railway Company, hereinafter referred to as the applicant, in providing itself with the following equipment:

Purposes	Estimated cost.	Financed by applicant.	Loan from United States.
Equipment:			
15 Santa Fe locomotives, at \$78,673 each.....	\$1,180,085.00	.....	.....
10 mikado locomotives, at \$66,705 each.....	667,050.00	.....	.....
10 mountain-type locomotives, at \$70,103 each.....	701,030.00	.....	.....
50 caboose cars, at \$4,463.51 each.....	223,177.00	.....	.....
	2,771,352.00	\$1,662,812.00	\$1,108,540.00
500 50-ton gondola cars, at \$2,300 each.....	1,150,000.00	690,000.00	460,000.00
Total.....	3,921,352.00	2,352,812.00	1,568,540.00

On September 9, 1921, the applicant amended its application, setting forth:

1. That that part of the loan in respect of locomotives and caboose cars has been made, and that the corporation and the applicant have

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done and performed all the things required of them in connection with said loan.

2. That the applicant has deferred the consummation of the remaining part of the loan and the purchase of 500 50-ton gondola cars as thereby provided, for the reason that the applicant was of the belief that the price of such cars would further decline; that the service to the public has not required the immediate purchase of said cars because of the general decline in business and the decrease in the number of coal shipments; but that on September 7, 1921, the applicant entered into a contract for the purchase of 200 of such cars at \$2,000 each, and these cars will be delivered within 60 to 90 days.

3. That the applicant is of the opinion that the transportation needs of the public at this time will be better served by the acquisition of additional locomotives for use upon the applicant's line of railway than by the purchase of all of said 500 gondola cars; that the applicant is now planning to rebuild approximately 250 coal cars, and believes its present requirements would be satisfied by the purchase of only 200 gondola cars.

4. That the applicant can now purchase mikado freight locomotives built according to its specifications at a price of approximately \$55,000 each, and the applicant requests authority to substitute these locomotives for 300 50-ton gondola cars as aforesaid.

After investigation we find that that part of the loan previously approved for the purpose of aiding the applicant in acquiring 500 50-ton gondola cars at \$2,300 each, in the total sum of \$460,000, should, in the public interest, be made applicable to the purchase of the following equipment:

Purpose.	Estimated cost.	Financed by applicant.	Loan by United States.
200 50-ton gondola cars, at \$2,000 each.....	\$400,000	.....	.....
14 mikado locomotives, at \$55,000 each.....	770,000	.....	.....
Total.....	1,170,000	\$710,000	\$460,000

The applicant's amended application is approved and our report of May 12, 1921, is hereby supplemented accordingly. Schedule I, part 5, of carrier contract No. 1, dated June 1, 1921, between the corporation and the applicant shall be amended to conform to this report.

COMMISSIONER DANIELS dissents.

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FINANCE DOCKET No. 1515.

IN THE MATTER OF THE APPLICATION OF THE OKLAHOMA & ARKANSAS RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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FINANCE DOCKET No. 1526.

IN THE MATTER OF THE APPLICATION OF THE OKLAHOMA & ARKANSAS RAILWAY COMPANY FOR PERMISSION TO RETAIN EXCESS EARNINGS.

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*Submitted August 29, 1921. Decided September 14, 1921.*

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1. Certificate issued authorizing the construction of a line of railroad in Mayes and Delaware Counties, Okla.
2. Permission to retain excess earnings granted.

*Jones, Foster & Randolph* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Oklahoma & Arkansas Railway Company, a corporation organized for the purpose of constructing a new line of railroad and engaging in transportation under the interstate commerce act, on July 8, 1921, filed an application pursuant to paragraph (18) in section 1 of the interstate commerce act, for a certificate that the present and future public convenience and necessity require the construction of a line of railroad in Mayes and Delaware Counties, Okla., and, on July 18, 1921, filed an application under paragraph (18) of section 15a of said act for permission to retain the excess earnings of the new line for a period of not more than 10 years. The Governor and the Corporation Commission of Oklahoma have recommended that the application for authority to construct the railroad be granted. An application by the same corporation for authority to issue stock is pending before us.

The applicant proposes to build a single-track standard-gauge steam railroad from a point of intersection with the Kansas, Oklahoma & Gulf Railroad near Salina, Mayes County, Okla., in a general easterly direction to a point in the northeast quarter of section

21, township 21 north, range 23 east, in Delaware County, Okla., a distance of approximately 20 miles.

The National Hardwood Company, hereinafter called the timber company, was organized by J. W. Hoffman and associates, for the purpose of developing 70,000 acres of hardwood timberland owned by them in the territory to be traversed by this proposed railroad. They transferred their timber holdings to the timber company, which issued its capital stock to them in payment therefor. J. W. Hoffman is president of the timber company. On May 4, 1921, the timber company conveyed all its property, then owned or thereafter to be acquired, to the Guaranty Trust Company, of Detroit, Mich., as trustee, to secure an issue of its bonds in the principal amount of \$1,250,000, bearing interest at the rate of 8 per cent per annum and maturing in eight years. Under the terms of this trust mortgage the timber company agrees to expend \$500,000 of the amount derived from the sale of its bonds in acquiring 30,000 additional acres of timberland, in building sawmills and other facilities, in constructing a railroad 20 miles long, and in the purchase of one steam locomotive. It is further provided in the mortgage that if the timber company deems it advisable to organize a separate corporation to build the railroad, a railroad company shall be incorporated under the laws of Oklahoma, with a capital stock of \$307,500, the estimated amount required for the construction of the road and the purchase of one steam locomotive.

J. W. Hoffman and Arthur Day made a contract with the timber company by which they undertook to perform the timber company's obligations with respect to the expenditure of the \$500,000 and the organization of the railroad company. Pursuant to this contract Hoffman and Day have caused the applicant corporation to be organized. Applicant states that it was found necessary to organize a railroad corporation to build the railroad, rather than to build it as a plant facility, because the land on which the road is to be built is owned by full-blood Indians and can not be alienated except to a railroad common carrier complying with the provisions of the act of Congress, commonly known as the Enid and Anadarko Act, and for the further reason that shippers other than the timber company would require the use of the line.

J. W. Hoffman & Company, a corporation entirely controlled by J. W. Hoffman and Arthur Day, has contracted with the applicant to build its line of railroad and to supply it with one steam locomotive, receiving as consideration therefor the capital stock of the applicant, at par, at the rate of \$15,000 per mile for construction work, to be delivered to it from time to time as the work progresses, and

\$7,500 for the locomotive. Under their contract with the timber company Hoffman and Day are to deliver the stock of the applicant to the timber company as received by them, and the timber company, or the trustee under its mortgage, is to pay them therefor the par value of the stock in cash. As soon as the applicant's stock is acquired by the timber company it becomes subject to the lien of the timber company's trust mortgage.

The primary purpose of the proposed construction is to provide facilities for the marketing of timber products from the property of the National Hardwood Company, but the applicant proposes also to engage in general transportation as a common carrier. It is stated that the proposed road would serve an area of 300,000 acres, of which 67 per cent is in timber, 20 per cent pasture, and 13 per cent is cultivated. The country is said to be hilly and broken and it is asserted that the soil is well suited to the culture of small grains and fruits. The population in the tributary territory is estimated by the applicant at 8,000.

The territory to be served by the proposed line lies between the Kansas, Oklahoma & Gulf Railroad on the west and the Kansas City Southern Railroad on the east. These railroads, running north and south, parallel each other at a distance of approximately 35 miles. It is therefore necessary for residents of the intervening territory to haul their products a maximum distance of 20 miles through a hilly and broken country to a railroad shipping point.

The applicant states that the timber company is prepared to finance the rapid exploitation of its timber lands, and expects to reach its maximum output in the second year of operation and to cut most of its timber within the first 10 years. The timber company plans to establish a town on applicant's proposed road at or near Steeley, Okla., about 15 miles from its intersection with the Kansas, Oklahoma & Gulf Railroad, and to erect mills there and at other points in the interior of Delaware County for the manufacture of railroad ties, wagon parts, and other hardwood products.

A detailed estimate of revenue, income, and traffic is submitted, showing for the first five years totals as follows: Gross revenue, \$847,600; net railway operating income, \$308,879.

These estimates appear to be high, but the revenue should be sufficient to pay a fair return on the investment during the period of lumbering activity. This estimate shows that 86 per cent of the total freight revenues will be derived from forest products. A large part of the remaining 14 per cent would be derived from traffic dependent on the timber industry.

It is obvious that the proposed road would have a very limited use except for hauling forest products, and that its main purpose is to

serve the timber company. Applicant claims that as the timber is cut the land will be devoted to agricultural and horticultural purposes, and that the traffic therefrom will be sufficient to maintain the road; but it appears doubtful whether the revenues would justify the continued operation of the road after lumbering operations have ceased. On the other hand, it appears that there are large areas of valuable timber that can not be marketed unless this line is built, and that it is not practicable to build it except as a common carrier. Its construction would aid in the development of a territory that is without adequate railroad transportation facilities. The contract provides for the construction of this railroad for a lump-sum price. Under this form of contract difficulty may be experienced in making proper charges to capital account.

Upon the facts presented we find that the present and future public convenience and necessity require the construction by the applicant of a line of railroad, approximately 20 miles long, in Mayes and Delaware Counties, Okla., described in the application. The applicant will be required to report to us all of its construction expenditures or the expenditures of the contracting company in its behalf, distributed to primary accounts according to our system of accounting, and to furnish information showing the unit quantities of grading, masonry, track, and other items of construction. We further find that applicant should be permitted to retain for a period not to exceed 10 years from the date the road is completed and put in operation, but not later than July 1, 1932, all of its earnings derived from operation of such newly constructed line of railroad in excess of the amount otherwise provided in section 15a of the interstate commerce act, for such disposition as it may lawfully make of the same, conditioned, however, upon the completion of the work of construction on or before June 30, 1922. A certificate and order will be entered accordingly.

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*Certificate and Order.*

Investigation of the matters and things involved in these applications having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction and operation by the Oklahoma & Arkansas Railway Company of the line of railroad in Mayes and Delaware Counties, Okla., described in said report.



*It is ordered*, That said Oklahoma & Arkansas Railway Company be, and it is hereby, authorized to construct and operate said line of railroad: *Provided, however*, That said Oklahoma & Arkansas Railway Company shall report to the commission all expenditures for construction of said line, distributed to primary accounts according to the commission's system of accounting, and furnish information showing the unit quantities of grading, masonry, track, and other items of construction of the said line.

- *It is further ordered*, That said Oklahoma & Arkansas Railway Company be, and it is hereby, permitted to retain for a period of not more than 10 years from the date on which the said line shall be placed in operation, but not extending beyond July 1, 1932, all of the earnings derived from operation of such line: *Provided, however*, That this permission is expressly conditioned upon the completion of said line on or before June 30, 1922.

*And it is further ordered*, That said Oklahoma & Arkansas Railway Company, when filing schedules establishing rates and fares to and from points on said railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

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## FINANCE DOCKET No. 1580.

## IN THE MATTER OF THE APPLICATION OF THE MINNEAPOLIS, ST. PAUL &amp; SAULT SAINTE MARIE RAILWAY COMPANY FOR AUTHORITY TO ISSUE SECURITIES.

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*Submitted September 12, 1921. Decided September 16, 1921.*

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Authority granted (1) to issue and sell at not less than 97½ per cent of par and accrued interest \$10,000,000 of 10-year 6½ per cent collateral-trust gold bonds; (2) to issue and pledge as collateral security for the proposed collateral-trust gold bonds \$12,500,000 of first refunding mortgage bonds, series A; and (3) to procure authentication and delivery to applicant's treasurer of \$2,500,000 of first refunding mortgage bonds, series A, to be held in the treasury until the further order of the commission.

*John L. Erdall* for applicant.

## REPORT OF THE COMMISSION,

## DIVISION 4, COMMISSIONERS DANIELS AND POTTER.

## BY DIVISION 4:

The Minneapolis, St. Paul & Sault Sainte Marie Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to issue and sell \$10,000,000 of 10-year 6½ per cent collateral-trust gold bonds; and (2) to issue \$15,000,000 of first refunding mortgage bonds, series A, \$12,500,000 thereof to be pledged as collateral security for the proposed collateral-trust gold bonds and the remainder to be held in the applicant's treasury. No objection to the granting of the application has been offered.

The applicant represents that the proposed issue and sale of collateral-trust gold bonds is necessary for the purpose of providing funds with which to discharge certain notes and unfunded indebtedness issued or incurred by the applicant prior to May 17, 1921, aggregating \$11,771,060.49. This indebtedness arises out of delayed payments of current liabilities and represents principally payments due for fuel, work, and materials required in the operation of the applicant's properties.

The collateral-trust gold bonds will be issued under a proposed trust indenture to be dated as of September 1, 1921, to the Bankers Trust Company, trustee, under which there will be pledged as collateral security \$12,500,000 of the applicant's first refunding mortgage bonds, series A.

The collateral-trust gold bonds will bear interest at the rate of  $6\frac{1}{2}$  per cent per annum, payable semiannually on March 1 and September 1, and will mature September 1, 1931. Arrangements have been made to sell the entire issue to Dillon, Read & Company at a price that will produce  $97\frac{1}{2}$  per cent of par.

The first refunding mortgage bonds, series A, will be issued under a mortgage dated January 1, 1921, executed and delivered by the applicant to the Guaranty Trust Company of New York, trustee. They will bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1, and will mature July 1, 1946.

Under section 4 of Article IV of the first refunding mortgage, bonds may be authenticated by the trustee and delivered to the applicant to pay and discharge notes and unfunded indebtedness issued or incurred by the applicant prior to May 17, 1921, and to reimburse the applicant for expenditures from its surplus earnings for corporate capital purposes from January 1, 1900, to May 17, 1921.

The applicant has presented evidence that from January 1, 1900, to May 17, 1921, it expended from its surplus earnings, for corporate capital purposes, sums aggregating \$23,204,572.90, which have not been heretofore capitalized, against which it is entitled to draw down bonds under the aforesaid first refunding mortgage.

We find that the proposed issue and sale by the applicant of its 10 year  $6\frac{1}{2}$  per cent collateral-trust gold bonds, the proposed issue and pledge by the applicant of its first refunding mortgage bonds, series A, and the proposed procurement of authentication and delivery by the trustee to the applicant of its first refunding mortgage bonds, series A, (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Minneapolis, St. Paul & Sault Sainte Marie Railway Company be, and it is hereby, authorized (1) to issue under date of September 1, 1921, \$10,000,000, principal amount, of its 10 year  $6\frac{1}{2}$  per cent collateral-trust gold bonds under and pursuant to, and to be secured by a proposed trust indenture to be dated

September 1, 1921, from the applicant to the Bankers Trust Company, trustee; said bonds to bear interest at the rate of  $6\frac{1}{2}$  per cent per annum, payable semiannually on March 1 and September 1, to mature September 1, 1931, and to be in the form set forth in the copy of said proposed trust indenture now on file in this proceeding; and (2) to sell said collateral-trust gold bonds at not less than  $97\frac{1}{4}$  per cent of par and accrued interest, the proceeds of such bonds to be used solely for the purposes set forth in the application: *Provided, however,* That the total cost to the applicant of the issue and sale of the proposed collateral-trust gold bonds shall not exceed 7 per cent per annum on the proceeds thereof, including in such cost interest, discounts, attorneys' fees, and all other expenses of sale in connection therewith.

*It is further ordered,* That the Minneapolis, St. Paul & Sault Sainte Marie Railway Company be, and it is hereby, authorized to issue under date of July 1, 1921, and to pledge as collateral security for said collateral-trust gold bonds and in accordance with said collateral-trust indenture, \$12,500,000, principal amount, of first refunding mortgage gold bonds, series A, under and pursuant to, and to be secured by, the first refunding mortgage made by the applicant as of January 1, 1921, to the Guaranty Trust Company of New York, trustee; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1, to mature July 1, 1946, and to be in the form set forth in the copy of the said mortgage now on file in this proceeding.

*It is further ordered,* That the Minneapolis, St. Paul & Sault Sainte Marie Railway Company be, and it is hereby, authorized to procure authentication and delivery by the trustee to its treasurer of \$2,500,000, principal amount, of said first refunding mortgage bonds, series A, and, when so authenticated and delivered by the trustee, to be held in the treasury of the applicant until the further order of this commission.

*It is further ordered,* That within 10 days after the execution and delivery of said collateral-trust indenture an authenticated copy thereof shall be filed with this commission in the form in which executed.

*It is further ordered,* That, except as herein authorized, said collateral-trust gold bonds and said first refunding mortgage bonds shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to (1) the issue and sale of said collateral-trust gold bonds as hereinbefore authorized; (2) the issue, pledge, and release from pledge of said

first refunding mortgage bonds; and (3) the authentication and delivery of said first refunding mortgage bonds to its treasurer; such report to be signed and verified by an executive officer of the applicant having knowledge of the facts contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said collateral-trust gold bonds or said first refunding mortgage bonds, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 1056.

IN THE MATTER OF THE APPLICATION OF THE  
BANGOR & AROOSTOOK RAILROAD COMPANY FOR A  
LOAN FROM THE UNITED STATES TO AID IN PRO-  
VIDING EQUIPMENT.

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*Submitted September 14, 1921. Decided September 19, 1921.*

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Authority granted for release of bonds pledged as collateral security for a loan under section 210 of the transportation act, 1920, as amended. Previous report, 67 I. C. C., 412.

*Percy R. Todd* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On April 15, 1921, we issued our report and certificate No. 88 to the Secretary of the Treasury, in *Loan to Bangor & Aroostook R. R.*, 67 I. C. C., 412, approving a loan of \$53,100 by the United States to the National Railway Service Corporation, an organization approved for the purpose as most appropriate in the public interest and hereinafter referred to as the corporation, to aid the Bangor & Aroostook Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, in providing itself with equipment.

We required to be pledged with the Secretary of the Treasury as security for this loan, an equivalent principal amount of deferred-lien 6 per cent equipment-trust certificates, issued in respect of contract No. 3, entered into by the applicant under an equipment-trust agreement, first series, conditional-sale basis, dated November 1, 1920, executed by the corporation to the Guaranty Trust Company of New York, as trustee, and in addition thereto \$100,000 of applicant's consolidated refunding mortgage 50-year 4 per cent gold bonds, due July 1, 1951. We rated these bonds for pledge purposes at 50 per cent of par value, the intention being to require, in addition to the pledge of deferred-lien certificates, the pledge of bonds of a fair value substantially equivalent to the amount of the loan.

In preparing for applicant's signature the aforementioned contract No. 3, the corporation provided that applicant should pledge  
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with the trustee thereunder, for the primary benefit of deferred-lien certificates, an additional \$100,000 of said bonds. Applicant now claims to have had no knowledge of this requirement by the corporation prior to the actual consummation of its loan, and to avoid delay in accepting its equipment, which was pressing for delivery, it acquiesced in all of the requirements as to security.

Under date of September 12, 1921, applicant, by its general counsel, requested us to authorize and approve the release of one-half of the total of \$200,000 of its bonds hypothecated and pledged as hereinbefore set forth, and we are of the opinion that this request should be granted.

An appropriate supplemental certificate No. 88 will be issued, authorizing the Secretary of the Treasury to release from pledge \$25,000 of said bonds. The corporation may authorize the trustee under said contract No. 3, pursuant to Schedule III thereof, to release to the applicant not to exceed \$75,000 of said bonds.

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*Supplemental Certificate No. 88, for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby supplements its certificate No. 88 of April 30, 1921, to the Secretary of the Treasury approving a loan of \$53,100 by the United States to the National Railway Service Corporation for the purpose of aiding the Bangor & Aroostook Railroad Company, hereinafter referred to as the applicant, in providing itself with equipment in the following manner, to wit:

1. Pursuant to the provisions of subparagraph (e) and part 2 of subparagraph (h) of paragraph 5 of said certificate No. 88 the Secretary of the Treasury is hereby authorized to release to the applicant \$25,000, principal amount, of applicant's consolidated refunding mortgage 50-year 4 per cent gold bonds, due July 1, 1951, the same being part of a total of \$100,000, principal amount, of said bonds more fully identified and described in and required to be pledged with him by the provisions of subparagraph (b) of paragraph 5 of said certificate No. 88.

2. Pursuant to the provisions of subparagraph (g) of paragraph 5 of said certificate No. 88 the Secretary of the Treasury, as the holder of the deferred-lien certificates identified and described in subparagraph (a) of said paragraph 5, if and when he is requested to consent to the release by the trustee referred to in said subparagraph (g) of all or any part of applicant's consolidated refunding 50-year 4 per cent gold bonds, due July 1, 1951, in a total principal



amount of \$100,000, now pledged with said trustee, is hereby directed to consent in writing to the release by the trustee of not to exceed \$75,000, principal amount, of said bonds, in accordance with the concluding paragraph of Schedule III of carrier contract No. 3, dated April 1, 1921, such contract being Exhibit B referred to in said subparagraph (a).

Done at Washington, D. C., this 19th day of September, 1921.

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## FINANCE DOCKET No. 1525.

## IN THE MATTER OF THE APPLICATION OF THE OKLAHOMA &amp; ARKANSAS RAILWAY COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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*Submitted August 29, 1921. Decided September 19, 1921.*

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Authority granted to issue \$307,500 of capital stock to a contractor for the construction of a line of railroad, pursuant to authority given in *Public-Convenience Certificate to Okla. & Ark. Ry.*, 70 I. C. C., 448, and for one steam locomotive.

*E. R. Jones* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Oklahoma & Arkansas Railway Company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of that act to issue \$307,500 of common capital stock in payment for the construction of a line of railroad and for one steam locomotive. No objection has been made to the granting of the application.

By our certificate of public convenience and necessity dated September 14, 1921, in *Public-Convenience Certificate to Okla. & Ark. Ry., supra*, the applicant was authorized to construct and operate a standard-gauge steam railroad approximately 20 miles long, extending in an easterly direction from a point on the Kansas, Oklahoma & Gulf Railroad near Salina, in Mayes County, Okla., to Kansas, in Delaware County, Okla. The estimate of costs of the railroad furnished by the applicant shows the following:

Engineering .....	\$10,000
Land for transportation purposes.....	14,400
Grading (including clearing and grubbing).....	79,135
Bridges, trestles, and culverts.....	20,450
Ties (track, switch, and bridge) .....	47,000
Rails.....	70,500
Other track material (frogs, fastenings, and switches).....	9,000
Tracklaying and surfacing.....	30,000
Right-of-way fences .....	6,000
Crossings and signs.....	4,000
Station and office buildings.....	2,500
Roadway buildings (tool houses).....	500

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Water stations-----	\$2, 000
Pump houses and engine houses-----	2, 000
Telegraph and telephone lines-----	1, 500
Signals and interlockers-----	500
<hr/>	
Total estimated costs-----	299, 485

The road is to be built and the locomotive furnished by J. W. Hoffman & Company, a corporation. Under the terms of the contract with this company, work of construction is to be commenced within 10 days after applicant gives notice that authority to construct the railroad and issue its stock has been granted by this commission and is to be completed within 12 months from the date of commencement thereof. Payment for construction is to be made to the contractor in the capital stock of the applicant at par at the rate of \$15,000 per mile.

On or before the tenth day of each month stock equivalent, at par, to 90 per cent of the value of the work done and of the right of way, structures, and equipment purchased and constructed during the preceding month, based upon preliminary estimates approved by the applicant's chief engineer, is to be delivered to the contractor, delivery in full to be deferred until the final completion and acceptance of the work.

We find that the proposed issue of capital stock by the applicant (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service; and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Oklahoma & Arkansas Railway Company be, and it is hereby, authorized to issue to J. W. Hoffman & Company, a corporation, in accordance with the terms of the contract referred to in said report, 3,075 shares of its common capital stock of the par value of \$100 per share; said stock to be issued to said J. W. Hoffman & Company in monthly installments based upon the value of the construction work performed and property acquired during the preceding month, as described in said report, the shares of stock

so issued to be represented by certificates in the form submitted with the application: *Provided, however,* That the aggregate par value of stock issued shall not exceed the total value of the work done and property acquired, as aforesaid.

*It is further ordered,* That said stock shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant in any manner or for any purpose, except as herein authorized.

*It is further ordered,* That the applicant shall, for the period ending December 31, 1921, and for each six months' period thereafter, report to this commission, within 30 days after the close of such period, all pertinent facts relating to the issue of said stock, and continue to file such reports until all of said stock shall have been issued; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 1570.

IN THE MATTER OF THE JOINT APPLICATION OF THE  
OHIO BELL TELEPHONE COMPANY AND THE OHIO  
STATE TELEPHONE COMPANY FOR A CERTIFICATE  
THAT CONSOLIDATION WILL BE IN THE PUBLIC IN-  
TEREST.

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*Submitted September 11, 1921. Decided September 19, 1921.*

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Certificate issued authorizing the consolidation of the Ohio Bell Telephone Company and the Ohio State Telephone Company.

*Earl H. Turner, John E. Todd, and Walter F. Brown* for the Ohio State Telephone Company.

*Carl Burr and Charles S. Maltby* for the Ohio Bell Telephone Company.

*Charles D. M. Cole* for the American Telephone & Telegraph Company.

*F. B. MacKinnon* for the United States Independent Telephone Association.

*John C. Price*, attorney general, for the Governor of Ohio.

*George T. Poor and E. A. Tinker* for the Public Utilities Commission of Ohio.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Ohio Bell Telephone Company and the Ohio State Telephone Company, on August 30, 1921, filed a joint application pursuant to the provisions of section 5 of the interstate commerce act, as amended by act of Congress approved June 10, 1921, amending section 407 of the transportation act, 1920, for a certificate that the consolidation of the properties of the applicants into a single company, under the conditions named in the application, will be of advantage to the persons to whom service is to be rendered and in the public interest.

Upon receipt of such application we fixed a time and place for a public hearing thereon and thereupon gave reasonable notice in writing to the Governor and the Public Utilities Commission of the State of Ohio, the only State in which the physical property affected, or any part thereof, is situated. A hearing was held pursuant to such notice.

The Ohio State Telephone Company, hereinafter referred to as the Ohio State, is engaged in furnishing local and long-distance telephone service in 74 counties in the State of Ohio, having a total population of 4,866,827, according to the census of 1920, and within that territory the Ohio State maintains 85 exchanges serving a total of 143,059 subscriber stations. The Ohio Bell Telephone Company, hereinafter called the Ohio Bell, furnishes local and long-distance telephone service in 73 counties in the State of Ohio, having a total population of 4,571,966 according to the census of 1920, and within that territory it maintains 76 exchanges with a total of 303,746 subscriber stations. Both of these companies are subject to the interstate commerce act, as amended, and the proposed consolidated company would be so subject.

The two companies, by appropriate corporate action in accordance with the laws of the State of Ohio, have entered into an agreement providing for the organization of a new corporation under the laws of that State and for the conveyance of all of the properties of both applicants to such new corporation. By the terms of the agreement the consolidated company is to issue its capital stock in the sum of \$53,225,646. Of this amount \$18,000,000, par value, of preferred stock is to be sold at 90 per cent of par for cash for the purpose of retiring short-time obligations heretofore issued under authorization of the State commission. A further amount of \$10,225,646, in preferred stock, is to be issued at par to the preferred and common stock holders of the Ohio State in exchange for that corporation's outstanding preferred and common stock. The \$25,000,000 remaining of the common stock of the consolidated company is to be issued to the stockholders of the Ohio Bell in exchange for that corporation's outstanding stock. The preferred stock of the consolidated company will provide for cumulative dividends at the rate of 7 per cent per annum, but will have no voting power so long as such dividends are paid annually. The properties when conveyed to the consolidated corporation will continue to be subject to the lien of outstanding bonds and notes in the principal amount of approximately \$18,000,000.

Proof was offered tending to show for the properties of the two applicants a present value considerably in excess of the proposed capitalization of the consolidated company. Such value is based upon figures adopted by the State commission in 1914 as representing the value of the respective properties for rate-making purposes. To this basic figure the respective applicants add net additions to property and plant since 1914, as shown by their respective books, in order to show the present value. Adding a reasonable allowance for working capital in each case, the value

claimed for the Ohio State's properties is about \$31,000,000, and the corresponding figure for the Ohio Bell properties reaches approximately \$19,000,000. For the purposes of this case it does not appear to be necessary that we should make a definite finding with respect to values, and no such finding is made.

The evidence is undisputed that the benefits to the public, growing out of the proposed consolidation, will be substantial. It appears that the applicants operate duplicate exchanges for local service in many of the cities of Ohio, including Cleveland, Akron, and Columbus, and that duplicate toll lines for the transmission of long-distance messages connect such exchanges. Business organizations and individuals are unanimous in the condemnation of this duplication of facilities. It is pointed out that the operation of competing exchanges in any given territory requires that all business and professional men become subscribers of both companies, since such competing exchanges are not physically connected for the interchange of messages, and no legal method exists of compelling such physical connection even if that remedy were considered a proper solution of the problem. It is contended that a sound policy must recognize the economic losses involved in the maintenance of a competitive situation in a field which is recognized as preeminently that of natural monopoly. Such duplication necessitates the maintenance by the competing public utilities of separate switchboards and wire plants, as well as separate operating forces and office organizations. Duplicated wire plants unnecessarily encumber the streets and the dual operating expenses must, in the last analysis, be paid by the public. It is represented that consolidation of these competing properties will eliminate much of the inconvenience and expense attendant upon the present method of operation and that, as regards all matters of local rates and service, the public will be as fully protected as at present, through the exercise of administrative remedies afforded by existing laws. It is the ultimate design to bring about, through the medium of the consolidated company, the unification of all existing duplicate plants, a process which of necessity will be a gradual one, but which will be worked out as rapidly as conditions will permit. The unification of exchanges in any given locality will require that a considerable amount of property now used in the public service be written off the consolidated company's books. Local rates will then be adjusted, as now, on the basis of the fair value of the property devoted to the service of the public.

Upon the facts presented we find that the proposed consolidation, as set forth in the joint application herein, will be of advantage to the persons to whom service is to be rendered and in the public interest. A certificate to that effect will accordingly be issued.



*Certificate of Advantage and Public Interest.*

A hearing having been had in this proceeding and full investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the consolidation of the properties of the Ohio Bell Telephone Company and the Ohio State Telephone Company as described in said report will be of advantage to the persons to whom service is to be rendered and in the public interest.

70 I. C. C.

## FINANCE DOCKET No. 1573.

## IN THE MATTER OF THE APPLICATION OF THE GEORGIA RAILROAD &amp; BANKING COMPANY FOR AUTHORITY TO ISSUE DEBENTURE BONDS.

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*Submitted September 15, 1921. Decided September 19, 1921.*

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Authority granted to issue, by selling at not less than 95 per cent of par and accrued interest, \$1,500,000 of debenture bonds; the proceeds thereof to be used in connection with other funds to pay off and retire a like amount of plain debentures now outstanding.

*Cumming & Harper* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Georgia Railroad & Banking Company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of that act to issue, by selling at not less than 95 per cent of par and accrued interest, \$1,500,000 of debenture bonds. No objection has been offered to the granting of the authority sought.

The applicant represents that on January 1, 1922, there will mature \$1,500,000 of its existing obligations consisting of \$1,200,000 of plain debentures, bearing interest at the rate of 5 per cent per annum, and \$300,000 of plain debentures, bearing interest at the rate of 6 per cent per annum. The applicant further represents that it has not sufficient cash or available surplus with which to pay these debentures at their maturity, and that it intends to use the proceeds of the proposed bonds in connection with other funds to pay off and retire the outstanding debentures when they become due.

The proposed bonds, 1,500 in number, will be of the denomination of \$1,000 each, unsecured by mortgage or otherwise, and will be dated October 1, 1921, mature October 1, 1951, and bear interest at the rate of 6 per cent per annum payable semiannually on April 1 and October 1.

The sale of the entire issue has been negotiated at 95 per cent of par and accrued interest, Spencer Trask & Company, of New York City, having agreed to purchase \$1,300,000, and William E. Bush & Company, of Augusta, Ga., \$200,000, of the proposed bonds.

We find that the proposed issue of bonds by the applicant (*a*) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Georgia Railroad & Banking Company be, and it is hereby, authorized to issue, by selling at not less than 95 per cent of par and accrued interest, \$1,500,000, principal amount, of debenture bonds; said bonds to be of the denomination of \$1,000 each, unsecured by mortgage or otherwise, to be dated October 1, 1921, to mature October 1, 1951, and to bear interest at the rate of 6 per cent per annum payable semiannually on April 1 and October 1; the proceeds of said bonds to be used in connection with other funds of the applicant to pay off and retire at their maturity on January 1, 1922, \$1,200,000, principal amount, of its outstanding plain debentures bearing interest at the rate of 5 per cent per annum, and \$300,000 of its outstanding plain debentures bearing interest at the rate of 6 per cent per annum, all of which outstanding plain debentures shall be canceled as and when they shall be so paid and retired.

*It is further ordered*, That none of the debenture bonds, the issue of which is hereby authorized, shall be sold, pledged, repledged, or otherwise disposed of, except as herein authorized, and that no portion of the proceeds thereof shall be used in any manner, or for any purpose, except as herein authorized.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue of said bonds; and shall, for the period ending December 31, 1921, and for each period of six months thereafter, within 30 days after the close of such period, report to this commission all pertinent facts relating to (1) the use of the proceeds of said bonds and (2) the cancellation of said outstanding debentures, and continue to make such reports until all of said proceeds shall have been disposed

of and said outstanding debentures canceled; each such report to be in writing and signed and verified by an executive officer of the applicant having knowledge of the matters contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said new debenture bonds, the issue of which is herein authorized, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1375.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL RAILROAD COMPANY FOR AN ORDER APPROVING AN OPERATING CONTRACT BY THE BOSTON & ALBANY RAILROAD COMPANY WITH THE PROVIDENCE, WEBSTER & SPRINGFIELD RAILROAD COMPANY.

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*Submitted September 6, 1921. Decided September 21, 1921.*

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Execution of a new contract whereby the Boston & Albany Railroad Company, through its lessee, the New York Central Railroad Company, operates the line of the Providence, Webster & Springfield Railroad Company, approved and authorized.

*George H. Fernald, jr.*, for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The New York Central Railroad Company, a common carrier by railroad subject to the interstate commerce act, hereinafter called the Central, on May 14, 1921, filed an application, pursuant to paragraph (2) in section 5 of the interstate commerce act, for an order approving a new contract made by the Boston & Albany Railroad Company, hereinafter called the Boston, with the Providence, Webster & Springfield Railroad Company, hereinafter called the Providence, under date of February 1, 1921, providing that the Boston shall perform all the transportation upon and over the railroad of the Providence. The contract has been approved by the department of public utilities of the State of Massachusetts. A hearing was held upon this application as provided by law.

The railroad of the Providence extends from Webster, Mass., in a northerly direction to a point of connection with the railroad of the Boston at Webster Junction, Mass., a distance of 12.26 miles. The railroad of the Providence was operated by the Boston from the time of its completion in 1884 to July 1, 1900, when the New York Central & Hudson River Railroad Company acquired control of the railroad of the Boston, pursuant to a lease, for a term of 99 years; and since that date this railroad has been operated by the New York

Central & Hudson River Railroad Company and by the applicant as its successor.

On May 1, 1907, the Boston and the Providence entered into a contract for the term of five years, to continue in force thereafter until terminated on 90 days' notice, by which the Boston agreed to operate the railroad of the Providence and to pay to the Providence therefor 25 per cent of the gross revenue derived from such operation. On February 1, 1921, the Boston, at the request of the Central, entered into a new agreement with the Providence, superseding the contract of May 1, 1907, to continue in force for the term of 10 years, and thereafter until terminated on 90 days' notice, by which the Boston agrees to operate the railroad of the Providence and to pay to the Providence therefor 25 per cent of the gross revenue from such operation, not exceeding \$15,000 in the aggregate in any one year. This contract further provides that during the term of the lease between the Central and the Boston the rights and obligations of the Boston under the contract may be enjoyed, performed, and assumed by the Central as if said rights and obligations had been included as a part of the demised premises in the lease, and the Central has assumed all the rights and liabilities of the Boston under this contract. The only material changes made in the contract of 1907 by the new agreement are that it provides for a definite term of 10 years in lieu of an indefinite term, subject to termination on 90 days' notice, and a maximum rental of \$15,000 per year instead of 25 per cent of the gross revenue without limit. The commission's approval of this contract is now sought.

On December 31, 1920, the outstanding capital stock of the Providence amounted to \$160,000, its road and equipment account showed an investment of \$276,078.62, and its profit-and-loss credit balance amounted to \$65,476.90.

The railroad of the Providence does not connect with any railroad except that of the Boston and does not parallel or compete with applicant's line. The Providence does not maintain any operating organization and does not own any equipment. It files reports with this commission as a lessor company. It is stated that separate operation of this line is practically impossible, and that it must be operated by the Boston, or its lessee, if it is to remain in the transportation service. Several towns along its line are wholly dependent upon it for railroad transportation. The proposed contract continues in force a relation that has existed since 1884.

Upon the facts presented we find that the execution of the contract described in the application is in the public interest. An order will be entered accordingly.

**ORDER.**

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That the execution of a contract whereby the Boston & Albany Railroad Company operates the line of the Providence, Webster & Springfield Railroad Company, as described in the application and report aforesaid, be, and the same is hereby, approved and authorized.

70 I. C. C.

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## FINANCE DOCKET No. 1575.

## IN THE MATTER OF THE APPLICATION OF THE CLEVELAND, CINCINNATI, CHICAGO &amp; ST. LOUIS RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING AND IMPROVEMENT MORTGAGE BONDS.

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*Submitted September 3, 1921. Decided September 21, 1921.*

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Authority granted to issue \$811,000, series A, and \$2,689,000, series B, 6 per cent refunding and improvement mortgage bonds; said bonds to be pledged as collateral security for a 6 per cent promissory demand note in the amount of \$3,500,000 issued by the applicant to the Director General of Railroads.

*John K. Graves* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue for pledge \$811,000, principal amount, series A, and \$2,689,000, principal amount, series B, of 6 per cent refunding and improvement mortgage bonds. No objection has been made to the granting of the application.

The refunding and improvement mortgage bonds, series A and B, are to be issued under, and to be secured by, the refunding and improvement mortgage dated June 27, 1919, made by the applicant to the Guaranty Trust Company of New York and Frank L. Littleton, trustees, copy of which is on file in Finance Docket No. 1086.

The \$811,000 of series-A bonds are to be issued to reimburse the applicant's treasury for expenditures made, or to pay or refund indebtedness incurred in respect of the construction, completion, extension, and improvement of its facilities, prior to the date of the mortgage above mentioned.

The \$2,689,000 of series-B bonds are to be issued, pursuant to the terms of the refunding and improvement mortgage, for the following purposes:

70 I. C. C.

To retire and refund a like principal amount of applicant's 5 per cent general-mortgage bonds due June 1, 1993-----	\$72, 400
To retire and refund a like principal amount of applicant's 20-year 4½ per cent gold debentures of 1911, due January 1, 1931-----	716, 000
To pay, or to provide for the payment of, a like amount of indebtedness incurred subsequent to the date of the mortgage for the construction of, and for additions and betterments to, applicant's property as set forth in the application-----	1, 900, 600

The general-mortgage bonds and the gold debentures, which the applicant proposes so to refund, are held unencumbered in its treasury and will be retired and canceled.

Under date of August 4, 1921, the applicant issued its 6 per cent promissory demand note to the order of the Director General of Railroads for \$3,500,000, in payment of its indebtedness to the United States for additions and betterments made to its property during the period of Federal control. The applicant proposes to pledge the refunding and improvement mortgage bonds, series A and B, in the aggregate amount of \$3,500,000 as collateral security for such note.

We find that the issue for pledge of refunding and improvement mortgage bonds, series A and B, by the applicant, as aforesaid, (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Cleveland, Cincinnati, Chicago & St. Louis Railway Company be, and it is hereby, authorized to issue \$811,000, principal amount, of series-A, and \$2,689,000, principal amount, of series-B, refunding and improvement mortgage bonds, under and pursuant to, and to be secured by, a refunding and improvement mortgage dated June 27, 1919, made by the applicant to the Guaranty Trust Company of New York and Frank L. Littleton, trustees; said series-A bonds to be dated July 1, 1919, and to mature July 1, 1929, and said series-B bonds to be dated July 1, 1920, and to mature July 1, 1935, both series to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1 in each year,

and to be issued solely for the purposes set forth in the aforesaid report herein; said bonds to be pledged as collateral security for a 6 per cent promissory demand note in the amount of \$3,500,000 issued by the applicant under date of August 14, 1921, to the order of the Director General of Railroads; *provided, however*, and such authority is granted upon the condition, that the \$72,400 of applicant's general-mortgage bonds and the \$716,000 of its gold debentures, mentioned in said report, shall be canceled and delivered to said trustees.

*It is further ordered*, That, except as herein authorized, the said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the issue, pledge, and release from pledge of said bonds, and the payment or satisfaction of said note, such reports to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET NO. 1115.

## IN THE MATTER OF THE APPLICATION OF THE MILLEDGEVILLE RAILWAY COMPANY FOR AUTHORITY TO ISSUE COMMON CAPITAL STOCK AND TO EXCHANGE SAID STOCK FOR BONDS.

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*Submitted September 15, 1921. Decided September 24, 1921.*

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Authority granted to issue \$30,000, par value, of common capital stock and to exchange said stock for a like amount of the applicant's outstanding first-mortgage bonds.

*Cumming & Harper* for applicant.

## • REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Milledgeville Railway Company, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of that act to issue \$30,000 of its common capital stock and to exchange said stock for a like amount of its outstanding first-mortgage bonds. No objection to the granting of the application has been made.

It appears that the applicant now has outstanding \$30,000 of first-mortgage 5 per cent bonds, which mature May 1, 1946, and which were issued under an indenture of mortgage dated May 1, 1896, made by the applicant to James H. Porter and Robert M. Farrar, as trustees. Unpaid interest on these bonds has accrued in the sum of \$36,000. It is stated in the application that the applicant's income has been insufficient to meet such interest. The bonds are owned by the Louisville & Nashville Railroad Company and the Atlantic Coast Line Railroad Company, which companies acquired them on or about April 24, 1899. These companies also own the applicant's entire outstanding capital stock, amounting to \$30,000. The bonds are coupon bonds, and all of the coupons, with the exception of those for November 1896, May and November, 1897, and May, 1898, are still attached.

The applicant's line is leased to the Georgia Railroad from January 1, 1917, to March 31, 1980, at an annual rental of \$1 and expenses, not including interest on funded debt. Inasmuch as the Georgia Railroad is an instrumentality by which the Louisville & Nashville

Railroad Company and the Atlantic Coast Line Railroad Company operate the joint property, this lease amounts to a lease to themselves.

The authorized capital stock of the applicant is \$100,000. The proposed issue and substitution of stock for bonds would result in no net increase in the applicant's capitalization and, moreover, would relieve the applicant from interest charges. The bonds are to be canceled and the mortgage securing them is to be satisfied of record. Unpaid interest accrued to the date of the exchange is also to be canceled.

We find that the proposed issue of common capital stock by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is consistent with the proper performance by the applicant of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

#### ORDER.

Investigation of the matters and things involved in this application having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Milledgeville Railway Company be, and it is hereby, authorized to issue \$30,000, par value, of its common capital stock and to exchange said stock for a like amount of its first-mortgage 5 per cent bonds, now outstanding: *Provided, however*, That said bonds, when surrendered in exchange for said stock, be forthwith canceled by the applicant, that the mortgage securing the bonds be thereupon satisfied of record, and that the accrued interest on said bonds and the coupons representing such interest be canceled.

*It is further ordered*, That the Milledgeville Railway Company report to this commission all pertinent facts relating to the issue of said stock, the cancellation of said bonds, of the unpaid interest accrued thereon, and of said coupons, and the satisfaction of said mortgage, within 10 days after such issue, cancellation, or satisfaction, respectively; each such report to be in writing and signed and verified by an executive officer of the applicant having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

## FINANCE DOCKET No. 1508.

IN THE MATTER OF THE APPLICATION OF THE SUGAR  
PINE RAILWAY COMPANY FOR A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted September 17, 1921. Decided September 24, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in the county of Tuolumne, in the State of California.

*Baker, Botts, Parker & Garwood* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Sugar Pine Railway Company, a carrier by railroad subject to the interstate commerce act, filed an application on July 1, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of its line of railroad in the county of Tuolumne, Calif. No representations in the matter were made by the State authorities of California, and the case was submitted without formal hearing.

The applicant's line was completed in 1906. It extends in a northeasterly direction from its junction with the Sierra Railway at Ralph, Calif., to Lyons Dam, Calif., a distance of 14.15 miles. Originally constructed as a plant facility of the Standard Lumber Company, of Sonora, Calif., the record shows it has amounted to little more than that since it began operations. When the line was completed from Ralph to Middlecamp, a distance of approximately 9 miles, the builder, then president of the Standard Lumber Company, exchanged the applicant's stock, \$1,000,000 par value, and bonds, \$180,000 par value, for Standard Lumber Company stock, and the line was extended by the lumber company from Middlecamp to Lyons Dam.

On April 12, 1918, the applicant leased the line and its accessorial property to the Standard Lumber Company for a period of 15 years, and it is now being operated by the lumber company. The lease provides that if any freight is tendered the applicant for shipment the lessee shall furnish the necessary equipment and employees to handle it. Comparatively little nonproprietary freight traffic has been carried by the road, approximately 96 per cent of the tonnage handled

being freight for the lumber company, consisting of logs, other forest products, and supplies, and the remainder live stock, mining products and supplies, and manufactured goods.

The par value of the applicant's stock was reduced on October 31, 1918, from \$100 a share to \$25 a share, without increase in the number of outstanding shares; and, as of the same date, the total of \$180,000 of the applicant's bonds, with accrued interest, was canceled by the Standard Lumber Company.

No accurate estimate of the cost of the line is available, as the builders merely accepted the applicant's stock and bonds, aggregating \$1,180,000, for their services. In the applicant's accounts the original cost of equipment is carried as \$107,230.09; depreciation, \$20,313.90; present value, \$86,916.19. The applicant has no current debts, and no accounts payable except to the Standard Lumber Company, and it has no funds with which to pay them. It has no passenger traffic and very little commercial freight tonnage. It serves no towns, villages, or settlements along its line, but merely operates for the lumber company through cut-over timberlands. Under existing conditions it can pay no return upon its investment. As a common carrier it is evidently not required, as it performs substantially no public service.

Upon the facts presented, we find that the present and future public convenience and necessity permit the abandonment of the line of railroad in question. A certificate to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment, by the Sugar Pine Railway Company, of its line of railroad extending from Ralph to Lyons Dam, in the county of Tuolumne, Calif., described in the application and report aforesaid.

*It is ordered,* That the said Sugar Pine Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That the said Sugar Pine Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.



## FINANCE DOCKET No. 1571.

## IN THE MATTER OF THE APPLICATION OF THE WESTERN MARYLAND RAILWAY COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted September 10, 1921. Decided September 24, 1921.*

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Authority granted (1) to procure authentication and delivery to applicant's treasurer of \$1,500,000 of first and refunding mortgage 5 per cent gold bonds; and (2) to pledge \$1,527,000 of first and refunding mortgage 5 per cent gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended.

*M. C. Byers* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Western Maryland Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to procure authentication and delivery to its treasurer by the trustee of \$1,523,680.23 of first and refunding mortgage 5 per cent gold bonds; and (2) to pledge \$1,527,000 of first and refunding mortgage 5 per cent gold bonds with the Secretary of the Treasury as collateral security for a loan of \$1,000,000 from the United States under section 210 of the transportation act, 1920, as amended. No objection has been made to the granting of the application.

By the provisions of the applicant's first and refunding mortgage, dated July 1, 1917, to the Equitable Trust Company of New York, trustee, a copy of which heretofore has been filed with us, the applicant is authorized to issue bonds not to exceed \$150,000,000, bearing interest at such rate not to exceed 6 per cent per annum as may be determined by it, and maturing July 1, 1967, for the purposes, among others, of reimbursing its treasury for expenditures which may have been made for the acquisition of terminals, terminal facilities, and other property, and for extensions, betterments, and improvements, and also for the purchase and acquisition of new equipment, and for improvements to existing equipment. Bonds amounting to \$14,447,461.04 have been issued, of which \$14,397,000 have been pledged as collateral security, and \$50,461.04 remain in the applicant's treasury.

The applicant shows that since February 16, 1917, it has expended \$1,523,680.23 for the above-mentioned purposes, as set forth in the application; and that no part of these expenditures heretofore has been capitalized. The applicant therefore is now entitled to have authenticated and delivered to it by the trustee bonds for a like amount in order to reimburse its treasury for the expenditures so made. We will at this time authorize the authentication and delivery of \$1,500,000 of the bonds. These bonds will bear interest at the rate of 5 per cent per annum, the rate borne by the bonds heretofore issued. With the bonds thus drawn down, and the \$50,461.04 of like bonds remaining in its treasury, the applicant will have a total amount of \$1,550,461.04 available for pledging purposes.

On September 12, 1921, by our certificate No. 113, in *Loan to Western Maryland Ry.*, 70 I. C. C., 387, we approved a loan from the United States to the applicant under section 210 of the transportation act, 1920, as amended, in the amount of \$1,000,000, to aid it in making certain additions and betterments, and required that the applicant's first and refunding mortgage 50-year series-A 5 per cent gold bonds, due in 1967, in the aggregate amount of \$1,527,000 be deposited with the Secretary of the Treasury as collateral security therefor. The loan is to be in six installments and as each installment is made bonds are to be deposited as follows:

Date of loan:	Amount of loan.	Bond deposit.
October 1, 1921-----	\$150, 000	\$229, 050
November 1, 1921-----	200, 000	305, 400
December 1, 1921-----	300, 000	458, 100
January 1, 1922-----	200, 000	305, 400
February 1, 1922-----	100, 000	152, 700
March 1, 1922-----	50, 000	76, 350
Total-----	1, 000, 000	1, 527, 000

There will remain in the applicant's treasury \$23,461.04 of said bonds after the required amount has been pledged with the Secretary of the Treasury.

We find that the proposed procurement of authentication and delivery to the applicant by the trustee and the proposed pledge of its first and refunding mortgage 5 per cent gold bonds by the applicant (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

## ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Western Maryland Railway Company be, and it is hereby, authorized, in order that it may reimburse its treasury for expenditures therefrom in payment for the acquisition of terminals, terminal facilities, and other property, and for extensions, betterments, and improvements, and also for purchase and acquisition of new equipment and for improvements to existing equipment, as set forth in the application, to procure authentication and delivery by the trustee to its treasurer of not exceeding \$1,500,000, principal amount, of its first and refunding mortgage gold bonds under and pursuant to, and to be secured by, the first and refunding gold-bond mortgage, dated July 1, 1917, made by the applicant to the Equitable Trust Company of New York, trustee; said bonds to bear interest at the rate of 5 per cent per annum and to mature July 1, 1967.

*It is further ordered*, That of the bonds herein authorized to be authenticated and delivered to applicant's treasurer, together with any or all of the applicant's first and refunding mortgage 5 per cent gold bonds now held in its treasury, the Western Maryland Railway Company be, and it is hereby, authorized to pledge with the Secretary of the Treasury not exceeding \$1,527,000 thereof as collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended, in the aggregate amount of \$1,000,000, as specified in this commission's certificate No. 113, dated September 12, 1921, in Finance Docket No. 1554.

*It is further ordered*, That except as herein authorized to be issued and pledged, said bonds shall not be sold, pledged, replugged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days thereafter, respectively, the applicant shall report to this commission all pertinent facts relating to (1) the authentication and delivery of the said bonds to its treasurer; (2) the pledge of the said bonds; and (3) the release of said bonds from pledge; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein contained shall be construed to imply any guaranty or obligation as to said bonds or the interest thereon on the part of the United States.

## FINANCE DOCKET No. 461.

IN THE MATTER OF SETTLEMENT WITH THE ETTRICK  
& NORTHERN RAILROAD COMPANY UNDER SECTION  
209 OF THE TRANSPORTATION ACT, 1920.

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*Submitted December 31, 1920. Decided September 26, 1921.*

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The Ettrick & Northern Railroad Company held not to be subject to the guaranty provisions of section 209 of the transportation act, 1920. Claim denied.

*H. R. Madsen* for the carrier.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Ettrick & Northern Railroad Company, hereinafter termed the carrier, was incorporated under the laws of Wisconsin on June 5, 1915, and since January 20, 1919, has operated a line of railroad extending from Ettrick to Blair, Wis., a distance of approximately 10 miles, connecting at the latter point with the Green Bay & Western Railroad, a line of railway under Federal control during the Federal control period. The carrier filed a written statement with us on March 15, 1920, accepting all the provisions of section 209 of the transportation act, 1920, and under dates of December 31, 1920, and February 12, 1921, it filed returns to our orders of October 18, 1920, and January 5, 1921, respectively, in which it claimed \$15,816.21 as the amount necessary to make good the guaranty under that section.

The carrier's property was not operated prior to January 20, 1919. It therefore had no income or deficit during the test period of three years ending June 30, 1917. As the carrier operated its own property from the time it was opened for operation January 20, 1919, to the end of the Federal control period, February 29, 1920, it had no contract for compensation from the Government, nor was any estimate of compensation made by the President. Under these circumstances there is under the law no basis for any guaranty to the carrier, and it is held not to be subject to the guaranty provisions of section 209. It is therefore necessary to deny the claim.

An appropriate order will be issued.

**ORDER.**

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the said claim be, and it is hereby, denied.

70 I. C. C.

## FINANCE DOCKET No. 1576.

IN THE MATTER OF THE APPLICATION OF THE  
TEXAS & NEW ORLEANS RAILROAD COMPANY FOR  
AUTHORITY TO ACQUIRE CONTROL, BY LEASE, OF  
THE TEXAS STATE RAILROAD.

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*Submitted September 24, 1921. Decided September 26, 1921.*

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Acquisition by the Texas & New Orleans Railroad Company of control of the Texas State Railroad, by lease, approved and authorized.

*H. M. Garwood, W. R. Scott, and C. K. Dunlap* for applicant.

*W. W. Caves*, assistant attorney general of Texas, for the attorney general of Texas and the Texas State Railroad.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Texas & New Orleans Railroad Company, a common carrier by railroad subject to the interstate commerce act, hereinafter called the New Orleans, on September 6, 1921, filed an application pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing it to acquire control, by lease, of the Texas State Railroad, a common carrier by railroad subject to the interstate commerce act, hereinafter called the Texas. A hearing was held upon this application as required by law.

The Texas extends from Rusk, Cherokee County, Tex., to Palestine, Anderson County, Tex., a distance of 32.6 miles. This line was built by the State of Texas in 1907 to serve an iron furnace and other industries operated by the penitentiary system of the State at Rusk. In 1917, the iron furnace was sold to private parties and the penitentiary buildings were converted into an asylum for the insane. Since that time no regular operations have been conducted over the Texas, but intermittent service has been furnished. For the past 11 years its operating revenues have not been sufficient to pay its operating expenses, and the operating deficits have been met by appropriations made by the State legislature.

The legislature of Texas, by act approved March 12, 1921, as amended by act approved August 25, 1921, created a board of managers for the Texas, and authorized this board to sell or lease the Texas and to enter into any other contract with respect to the railroad

or its property. Acting under this authority, the board of managers, on August 23, 1921, made a contract with the New Orleans, granting to the latter company the right to operate trains over the Texas and to use all of its facilities and appurtenances for a term of five years, beginning on the date when the Texas shall have been so repaired and strengthened as to permit the New Orleans to operate over its tracks. By its terms this contract is not to be binding upon the board of managers of the Texas until it is approved by the Governor of Texas, and is not to be binding upon the New Orleans until approved by this commission. This contract was confirmed and ratified by the Legislature of Texas by act passed August 24, 1921, and approved by the governor on August 25, 1921. The Railroad Commission of Texas states that in its opinion the proposed contract will result in great benefit to the people residing on the line of the Texas and to the shipping public generally. Communications have been received from the Palestine Business League and the Chamber of Commerce of Rusk recommending that the application be granted.

The New Orleans is a part of the Southern Pacific system and operates a branch from its main line at Gallatin, Tex., to Rusk, a distance of 8.29 miles, where it connects with the Texas. It claims that the operation of this branch line is not remunerative, but states that if it acquires the trackage from Rusk to Palestine the additional revenue derived therefrom will largely increase its net operating revenues.

The territory traversed by the Texas is but partially developed. The land is stated to be better than the average in eastern Texas and to be well adapted to light farming and the raising of vegetables. It is claimed that the development of the country has been retarded by the lack of transportation facilities. Estimates made by the applicant indicate that there are 100,000,000 feet of pine timber in the tributary territory, which it claims would be developed if afforded adequate transportation service. The proposed lease would give the city of Palestine the benefit of competitive trunk-line service and the wide distribution facilities of the Southern Pacific system. It would also give the intervening territory from Rusk to Palestine the benefits of one-line rates, an adequate car supply, and the advantages of regular and dependable railroad service. The New Orleans proposes to establish an improved through passenger service from Palestine to Dallas, the largest jobbing center for this territory, which will shorten the present traveled distance between these points by approximately 40 miles.

The New Orleans proposes to pay to the board of managers of the Texas, as rental, a sum equivalent to 50 per cent of the net railway operating income of that line, and it estimates the total operating



revenues of the Texas under the present basis of divisions will be \$62,300. The New Orleans states that its operation of the Texas will increase its operating expenses only to a nominal extent, as its crew on the Gallatin branch will be used to handle the service on the Texas and there will be no addition to its present administration expenses. It is reasonably apparent that the proposed lease will be advantageous to the New Orleans, the State of Texas, and the shipping and traveling public.

Upon the facts presented we find that the execution of the lease described in the application is in the public interest. An order will be entered accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That the Texas & New Orleans Railroad Company be, and it is hereby, authorized to acquire control of the Texas State Railroad in accordance with the terms of the lease described in the application and the report aforesaid.

70 I. C. C.

## FINANCE DOCKET No. 174.

## IN THE MATTER OF SETTLEMENT WITH THE MARIETTA &amp; VINCENT RAILROAD COMPANY UNDER SECTION 204 OF THE TRANSPORTATION ACT, 1920.

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*Submitted October 14, 1920. Decided October 5, 1921.*

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1. The Marietta & Vincent Railroad Company is subject to section 204 of the transportation act, 1920.
2. The amount payable to the Marietta & Vincent Railroad Company under the provisions of paragraphs (f) and (g) of section 204 is ascertained to be \$20,188.84, from which no amount is deductible as due from the Marietta & Vincent Railroad Company to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness. Certificate issued.

*H. W. Caldwell* for the carrier.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Marietta & Vincent Railroad Company, a corporation of the State of Ohio, hereinafter termed the carrier, is a steam-railroad company, which, during the Federal control period, engaged as a common carrier in general transportation, operating between Moores Junction and Vincent, Ohio, a distance of approximately 10 miles, its lines connecting at Moores Junction with the Baltimore & Ohio Railroad, a line of railway or system of transportation under Federal control. It sustained a deficit in its railway operating income while under private operation in the Federal control period. It is, therefore, a carrier within the meaning of paragraph (a) of section 204 of the transportation act, 1920. It began to operate under its present management on June 1, 1918.

The carrier was under Federal control from June 1 to June 26, 1918, inclusive, and is subject to the provisions of section 204 for the period from June 27, 1918, to February 29, 1920, inclusive. It did not have a contract with the director general for any portion of the Federal control period. The return of the carrier under our circular of March 4, 1920, indicated that its deficit in railway operating income for the period June 27, 1918, to February 29, 1920, inclusive, was \$20,514.68, but our examination of the accounts shows the correct amount for that period to be \$20,188.84. The operated mileage during the Federal control period was approximately 10 miles.

The railroad owned by this company formerly comprised part of the 40 miles of road owned by the Marietta, Columbus & Cleveland Railroad Company. Operation of the Marietta, Columbus & Cleveland Railroad was discontinued about October 31, 1916, pursuant to authority granted by the court. The road was sold and the western portion of the property, 23 miles in length, was operated as a private switch to coal mines, but is now operated as a common carrier by the Federal Valley Railroad Company. Of the remaining 17 miles, 7 were dismantled and 10 were operated as a private switch until June, 1918, when the Marietta & Vincent Railroad Company acquired title to the 10 miles and began operation thereof.

The return made by the carrier to our questionnaire does not include any figures representing the results of operations of the property prior to June 1, 1918. An unsuccessful effort was made to locate the records of the Marietta, Columbus & Cleveland Railroad Company. The result of the operations of that company during the test period includes the results of the operation of this property, and it has been found impossible to make an equitable segregation of the accounts for the purpose of establishing the income or deficit for the portion of the property of the Marietta, Columbus & Cleveland Railroad Company operated by the Marietta & Vincent Railroad Company subsequent to May 31, 1918. For this reason it has been found necessary to apply the provisions in the last sentence of paragraph (f) of section 204 in ascertaining the deficit for which this carrier should be reimbursed under this section.

We find a net amount of \$20,188.84 due the carrier under section 204 in reimbursement of deficits during Federal control, from which no amount is deductible as due from the carrier to the President, as operator of the transportation systems under Federal control, on account of traffic balances and other indebtedness. The carrier has expressed its willingness to accept the amount thus determined by us in final settlement of all its claims against the United States under section 204.

An appropriate certificate will be issued.

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*Certificate No. B-89 under Section 204 of the Transportation Act, 1920.*

TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:

1. The Interstate Commerce Commission, hereinafter termed the commission, hereby certifies that the Marietta & Vincent Railroad Company, hereinafter termed the carrier, is a corporation of the State of Ohio, and is a carrier as defined under section 204 of the transportation act, 1920. The commission further certifies that the

carrier sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation and hereby certifies that under the provisions of paragraphs (f) and (g) of said section 204 the amount payable to the Marietta & Vincent Railroad Company is \$20,188.84.

2. The commission also certifies that there is nothing due from the carrier to the President (as operator of the transportation systems under Federal control) on account of traffic balances or other indebtedness.

Dated this 5th day of October, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1254.

## IN THE MATTER OF THE APPLICATION OF THE ST. PAUL &amp; KANSAS CITY SHORT LINE RAILROAD COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted September 17, 1921. Decided October 5, 1921.*

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Authority granted to issue \$619,000 of first-mortgage bonds and to deliver them to the Chicago, Rock Island & Pacific Railway Company in reimbursement of advances for additions and betterments.

*M. L. Bell* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The St. Paul & Kansas City Short Line Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, has duly applied for authority under section 20a of the interstate commerce act to issue \$619,000 of its first-mortgage 4½ per cent 30-year gold bonds, and to deliver them to the Chicago, Rock Island & Pacific Railway Company in reimbursement of advances for additions and betterments. No objection has been made to the granting of the application.

The applicant is an Iowa corporation, organized in 1911. The Chicago, Rock Island & Pacific Railway Company owns its entire capital stock. Its line is 182.93 miles in length, and extends from Allerton, in the southern part of Iowa, to Mason City, passing through Des Moines. On November 1, 1913, the applicant leased its property to the Chicago, Rock Island & Pacific Railway Company for a term of 99 years, this lease being made subject to the lien of the first mortgage. The annual rental paid by the lessee is equal to the interest, taxes, and organization expenses of the applicant.

The first mortgage, dated February 23, 1911, to the Bankers Trust Company, trustee, was given to secure the payment of its 4½ per cent gold bonds to be thereafter issued in the total amount of \$30,000,000, maturing February 1, 1941. The applicant seeks authority to issue bonds pursuant to section 4 of article 2 of this mortgage in the aggregate principal amount of \$619,000, and to deliver them to the lessee as payment in full for sums of at least equal amount advanced by it

to applicant and expended for additions and betterments on the applicant's road prior to February 29, 1920.

The applicant's authorized capital stock is \$45,000,000, of which \$50,000 is issued and outstanding. As of June 30, 1921, there were first-mortgage bonds outstanding to the amount of \$12,694,195. As of January 31, 1921, applicant's investment in road and equipment was \$13,457,698.23.

We find that the proposed issue and delivery by the applicant of first-mortgage bonds as aforesaid (a) are for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the St. Paul & Kansas City Short Line Railway Company be, and it is hereby, authorized (1) to issue \$619,000, principal amount, of first-mortgage bonds under and pursuant to, and to be secured by, its first mortgage, dated February 23, 1911, to the Bankers Trust Company, trustee; said bonds to bear interest at the rate of 4½ per cent per annum, payable semiannually on February 1 and August 1, to mature February 1, 1941, and to be in substantially the form set forth in the copy of mortgage submitted with the application; and (2) to deliver said bonds to the Chicago, Rock Island & Pacific Railway Company at par for the purposes stated in said report.

*It is further ordered*, That, except as herein authorized, said bonds shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue and delivery of said bonds; such report to be signed and verified by an executive officer of the applicant having knowledge of the facts contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1271.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND &amp; PACIFIC RAILWAY COMPANY FOR AUTHORITY TO GUARANTEE BONDS OF LESSOR COMPANIES.

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*Submitted July 5, 1921. Decided October 5, 1921.*

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Authority granted to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of \$619,000 of first-mortgage gold bonds of the St. Paul & Kansas City Short Line Railroad Company. Original report, 70 I. C. C., 80.

*M. L. Bell* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago, Rock Island & Pacific Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act, to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of \$619,000 of first-mortgage gold bonds of the St. Paul & Kansas City Short Line Railroad Company, and of \$227,000 of first-mortgage gold bonds of the Rock Island, Arkansas & Louisiana Railroad Company. No objection has been made to the granting of the authority requested. That portion of the application relating to the assumption of obligation or liability in respect of the bonds of the Rock Island, Arkansas & Louisiana Railroad Company was disposed of by our order entered in this proceeding on July 8, 1921, 70 I. C. C., 80.

In *Bonds of St. Paul & Kansas City Short Line R. R.*, 70 I. C. C., 491, authority was granted the St. Paul & Kansas City Short Line Railroad Company to issue and deliver \$619,000 of its first-mortgage 4½ per cent gold bonds to the applicant herein. The applicant is lessee for a term of 99 years from November 1, 1913, of the property of the St. Paul & Kansas City Short Line Railroad Company, and owns all of its capital stock. Prior to February 29, 1920, the applicant advanced more than \$619,000 for additions and betterments to the lessor road, and the aforesaid authorized issue of bonds is to be used in payment of \$619,000 of this indebtedness. All the bonds out-

70 I. C. C.



standing under the first mortgage, dated February 23, 1911, have been unconditionally guaranteed by indorsement as to payment of both principal and interest by applicant. It is represented that since the lessor company has no credit the applicant's guaranty will result in the creation of a market for the bonds. The applicant proposes to hold these bonds in its treasury to be pledged as collateral security for such short-term loans as it may find necessary to make until their market price, which is now about 68 per cent of par, shall improve.

We find that the proposed assumption by the applicant of obligation or liability in respect of the payment of the principal and interest of the bonds of the St. Paul & Kansas City Short Line Railroad Company as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

#### ORDER.

Further investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to assume obligation or liability as guarantor by indorsement in respect of the payment of the principal and interest of not exceeding \$619,000, principal amount, of first-mortgage 4½ per cent gold bonds of the St. Paul & Kansas City Short Line Railroad Company, authority for the issue of which has been granted by this commission in Finance Docket No. 1254.

*It is further ordered,* That the applicant shall report to this commission, within 10 days thereafter, all pertinent facts relating to the guaranty of said bonds, such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or interest thereon on the part of the United States.

## FINANCE DOCKET No. 1539.

## IN THE MATTER OF THE APPLICATION OF THE JACKSON &amp; EASTERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted October 3, 1921. Decided October 5, 1921.*

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Authority granted to issue \$93,000 of first-mortgage 6 per cent bonds and to sell said bonds at not less than par, for the purpose of reimbursing applicant's treasury for expenditures heretofore made for additions and betterments and not yet capitalized.

*Geo. B. Neville* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Jackson & Eastern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$93,000 of its first-mortgage 6 per cent bonds, and to sell them at not less than par for the purpose of reimbursing its treasury for expenditures made for additions and betterments prior to July 1, 1921, which have not yet been capitalized. No objection has been offered to the granting of the application.

By the provisions of the applicant's first mortgage dated February 2, 1920, made to the Mercantile-Union Trust Company, the applicant is authorized to issue bonds to the amount of \$140,000, bearing interest at the rate of 6 per cent per annum, and maturing February 2, 1925, for the purpose, among others, of reimbursing its treasury for expenditures which may have been made for additions and betterments to the operating property. Of this amount \$45,000 of bonds have already been issued.

The applicant represents that from the beginning of construction up to January 1, 1921, it had invested in road and equipment \$237,891.67, and between January 1, 1921, and July 1, 1921, \$6,604.94, totaling \$244,496.61. Its present capitalization is \$145,000, leaving \$99,496.61 uncapitalized. Our order in *Public-Convenience Certificate to Jackson & Eastern Ry.*, 70 I. C. C., 110, 113, issued July 12, 1921, however, forbids the issue of bonds or other evidence of indebtedness for the construction of an extension to applicant's existing line for a period of five years after commencement of construction.

Of the amount invested it appears that \$6,604.94 was for this extension. The applicant is therefore entitled to issue bonds only to the extent of approximately \$93,000 for additions and betterments to its existing line.

We find that the proposed issue and sale of first-mortgage bonds by the applicant to the extent of \$93,000 (*a*) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Jackson & Eastern Railway Company be, and it is hereby authorized to issue not exceeding \$93,000, aggregate principal amount, of its first-mortgage bonds, under and pursuant to, and secured by, the first mortgage dated February 2, 1920, made by the applicant to the Mercantile-Union Trust Company; said bonds to bear interest at the rate of 6 per cent per annum, payable semi-annually on January 1 and July 1 in each year, and to mature February 2, 1925; said bonds to be sold at not less than par, the proceeds of such sale to be used solely for the purposes set forth in said report.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That the applicant shall within 10 days thereafter report to this commission all pertinent facts relating to the issue and sale of said bonds; such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or interest thereon on the part of the United States.

FINANCE DOCKET No. 1553.

IN THE MATTER OF THE APPLICATION OF THE SEABOARD AIR LINE RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted September 30, 1921. Decided October 5, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in the county of Manatee, in the State of Florida.

*James F. Wright* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Seaboard Air Line Railway Company, a carrier by railroad subject to the interstate commerce act, filed an application on August 11, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of the Fruitville extension of its line of railroad in the county of Manatee, Fla. No representations were made by the State authorities of Florida, and the case was submitted without formal hearing.

The Fruitville extension was constructed by the Florida West Shore Railway Company in 1905 for the purpose of reaching timber tracts and agricultural lands beyond Fruitville. The right of way was deeded to that company for the nominal consideration of \$1 and the original cost of construction of the line is shown to have been \$5,340.40. The line extends in a northeasterly direction from Fruitville Junction, on the main line of the applicant's road, to Fruitville, a distance of 0.66 mile.

The passenger and freight traffic handled by the line is negligible. In the five years ended December 31, 1920, the total passenger revenue was \$2.25. The freight traffic consists of small quantities of citrus fruit and merchandise, a few cattle and hogs, and, it is stated, one carload of lumber a week. Tracts of land near Fruitville, aggregating 3,000 acres, formerly devoted to truck farming, have been abandoned. No increase in traffic is in prospect. Such freight traffic as may originate in the Fruitville district can be handled conveniently and satisfactorily at Fruitville Junction.

The applicant desires to abandon the line not only because it does not pay operating expenses, but also because the track material is needed elsewhere on its road.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the line of railroad in question. A certificate to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Seaboard Air Line Railway Company of its line of railroad extending from Fruitville Junction to Fruitville, in the county of Manatee, Fla., described in the application and report aforesaid.

*It is ordered,* That the said Seaboard Air Line Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That the said Seaboard Air Line Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1449.

IN THE MATTER OF THE JOINT APPLICATION OF THE  
BURLINGTON, CEDAR RAPIDS & NORTHERN RAIL-  
WAY COMPANY AND OF THE CHICAGO, ROCK ISLAND  
& PACIFIC RAILWAY COMPANY FOR AUTHORITY TO  
ISSUE BONDS.

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*Submitted August 27, 1921. Decided October 6, 1921.*

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1. Authority granted to the Burlington, Cedar Rapids & Northern Railway Company to sell \$1,905,000 of consolidated first mortgage bonds at par and accrued interest to the Chicago, Rock Island & Pacific Railway Company.
2. Authority granted to the Chicago, Rock Island & Pacific Railway Company to procure authentication and delivery to its treasurer of \$1,905,000 of first and refunding mortgage gold bonds.
3. Authority granted to the Chicago, Rock Island & Pacific Railway Company to pledge and repledge from time to time all or any part of said first and refunding mortgage gold bonds as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*M. L. Bell* for applicants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

By a joint application duly filed in this proceeding the Burlington, Cedar Rapids & Northern Railway Company, hereinafter termed the Northern Company, a common carrier by railroad engaged in interstate commerce, asks authority under section 20a of the interstate commerce act to sell \$1,905,000 of its consolidated first mortgage bonds to the Chicago, Rock Island & Pacific Railway Company at par and accrued interest, and the Chicago, Rock Island & Pacific Railway Company, hereinafter termed the Rock Island, likewise a common carrier by railroad engaged in interstate commerce, asks authority under the same section to procure authentication and delivery to its treasurer of \$1,905,000 of its first and refunding mortgage gold bonds. No objection to the granting of the application has been offered.

In 1900 the railway and properties of the Cedar Rapids, Iowa Falls & Northwestern Railway Company were acquired by the Northern Company, subject to the lien of \$1,905,000 of first-mortgage

bonds maturing October 1, 1921. These bonds were secured by a first mortgage made to the Central Trust Company of New York under date of June 23, 1881.

The Northern Company had made a consolidated first mortgage to the Central Trust Company of New York, under date of April 1, 1884, to secure an issue of bonds maturing April 1, 1934, of which \$1,905,000 were reserved to be issued upon the surrender of the first-mortgage bonds of the Cedar Rapids, Iowa Falls & Northwestern Railway Company. In 1903 the railway and properties of the Northern Company were sold to the Rock Island, subject to the liens of the aforesaid mortgages and bonds then outstanding.

The Rock Island proposes to supply the funds with which to pay off and retire the \$1,905,000 of outstanding first-mortgage bonds of the Cedar Rapids, Iowa Falls & Northwestern Railway Company and to accept \$1,905,000 of consolidated first mortgage bonds of the Northern Company in reimbursement of the cash thus advanced. These consolidated first mortgage bonds will be deposited by the Rock Island with the Central Union Trust Company of New York, trustee under its first and refunding gold-bond mortgage dated April 1, 1904, in exchange, in accordance with the provisions of that mortgage, for a like amount of first and refunding mortgage gold bonds. The Rock Island proposes to hold the bonds thus made available in its treasury and to use them from time to time as collateral security for such short-term loans as may be found necessary until the market price of such bonds shall improve.

It is represented that the plan of financing proposed is necessary in order to prevent possible foreclosure of the Cedar Rapids, Iowa Falls & Northwestern Railway Company's first mortgage, whereby the Rock Island would lose the ownership and possession of the mortgaged property, which is a constituent and necessary part of its system of transportation.

We find that the proposed issues of consolidated first mortgage bonds by the Burlington, Cedar Rapids & Northern Railway Company and of first and refunding mortgage gold bonds by the Chicago, Rock Island & Pacific Railway Company (*a*) are for lawful objects within the corporate purposes of the applicants, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.



## ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Burlington, Cedar Rapids & Northern Railway Company be, and it is hereby, authorized to issue \$1,905,000, principal amount, of consolidated first mortgage bonds under and pursuant to, and to be secured by, the consolidated first mortgage dated April 1, 1884, made by it to the Central Trust Company of New York (now known as the Central Union Trust Company of New York); said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on April 1 and October 1, to mature April 1, 1934, and to be sold to the Chicago, Rock Island & Pacific Railway Company at par and accrued interest, and the proceeds thereof to be used solely for the purposes set forth in the application.

*It is further ordered*, That none of said consolidated first mortgage bonds shall be sold, pledged, repledged, or otherwise disposed of by said Burlington, Cedar Rapids & Northern Railway Company, except as herein authorized.

*It is further ordered*, That the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to procure authentication and delivery by the trustee to its treasurer of \$1,905,000, principal amount, of first and refunding mortgage gold bonds under and pursuant to, and to be secured by, the first and refunding gold-bond mortgage dated April 1, 1904, made by it to the Central Trust Company of New York (now known as the Central Union Trust Company of New York) and David R. Francis; said bonds to bear interest at the rate of 4 per cent per annum, payable semiannually on April 1 and October 1, and to mature April 1, 1934.

*It is further ordered*, That, until otherwise ordered by this commission, the Chicago, Rock Island & Pacific Railway Company be, and it is hereby, authorized to pledge and repledge, from time to time, all or any part of said first and refunding mortgage gold bonds, as collateral security for any note or notes which may be issued by it within the limitations of paragraph (9) of section 20a of the interstate commerce act without our authorization therefor having been first obtained; such pledge or pledges to be in the ratio of not exceeding \$125 in value of bonds at their prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is further ordered*, That none of said first and refunding mortgage gold bonds shall be sold, pledged, repledged, or otherwise dis-

posed of by said Chicago, Rock Island & Pacific Railway Company, except as herein authorized.

*It is further ordered*, That the Burlington, Cedar Rapids & Northern Railway Company shall, within 10 days thereafter, respectively, report to the commission all pertinent facts relating (1) to the sale of said consolidated first mortgage bonds, and (2) to the payment and discharge of said Cedar Rapids, Iowa Falls & Northwestern Railway Company's first-mortgage bonds; and that the Chicago, Rock Island & Pacific Railway Company shall, (1) within 10 days thereafter, report to the commission all pertinent facts relating to the authentication and delivery to its treasurer of said first and refunding mortgage gold bonds; (2) within 10 days after the pledge or repledge of any of said first and refunding mortgage gold bonds as herein authorized, shall file with this commission certificates of notification to that effect; and (3) within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto; said reports to be signed and verified by executive officers of the applicants, respectively, having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said consolidated first mortgage bonds or said first and refunding mortgage gold bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 931.

IN THE MATTER OF THE APPLICATION OF THE CAROLINA, CLINCHFIELD & OHIO RAILWAY FOR A LOAN FROM THE UNITED STATES TO MEET MATURING OBLIGATIONS AND TO PROVIDE EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

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*Submitted October 8, 1921. Decided October 10, 1921.*

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Application granted and loan of \$1,000,000 approved. Previous report, 65 I. C. C., 26.

*N. S. Meldrum* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, AND EASTMAN.

BY DIVISION 4:

On June 26, 1920, we issued to the Secretary of the Treasury certificate No. 4, 65 I. C. C., 26, 30, approving a loan of \$2,000,000 by the United States to the Carolina, Clinchfield & Ohio Railway, hereinafter referred to as the applicant, under section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness, consisting of \$2,000,000 of applicant's 10-year notes, maturing July 1, 1920, \$1,300,000 of 5 per cent Elkhorn first-mortgage gold notes, the payment of which was extended to January 1, 1922, on condition that the applicant place them with another holder not later than July 1, 1920, and short-time notes and acceptances of the applicant in the amount of \$4,124,000, making an aggregate total of maturing indebtedness of approximately \$7,000,000.

Among the terms and conditions of the loan was the following: That prior to the making of the loan the applicant should furnish in form satisfactory to us evidence of its effective undertaking to finance and meet the several obligations set forth in subdivision numbered 3 of certificate No. 4 by the issue and sale to its stockholders, or others, of its income debentures in a principal amount not less than \$5,000,000, bearing interest at the rate of 6 per cent per annum, and to be sold at not less than par, the undertaking of the applicant in this regard to be underwritten by a responsible banking institution which should undertake to dispose of or purchase the debentures at par, and at an interest cost of not exceeding 6 per cent per annum; the term of the debentures to be not exceeding 15 years, and it being distinctly provided that no part of the principal should be paid until the loan should be repaid in full and all obligations in connection therewith fulfilled, and that no part of the interest on the debentures should be paid while any interest due on the loan should remain un-

paid; but that the applicant should have the privilege of retiring the debentures or converting them by issue of the applicant's capital stock; and that the proceeds of the debentures should not be used for or applied to any other purpose than the payment of the aforesaid obligations of the applicant due or maturing in the years 1920 and 1921.

We later extended the time for the fulfillment of this condition to January 1, 1921, and on July 1, 1920, we issued to the Secretary of the Treasury our supplement to certificate No. 4, 65 I. C. C., 33, further certifying that the terms and conditions of the loan had been satisfactorily complied with by the applicant, and that the Secretary of the Treasury might proceed to make the loan upon the security prescribed.

At applicant's request we again extended to July 1, 1921, and October 1, 1921, the time for the fulfillment of the aforesaid condition with respect to the issue and sale of income debentures.

On October 6, 1920, we issued to the Secretary of the Treasury our certificate No. 28, 65 I. C. C., 251, 256, approving a further loan of \$1,000,000 by the United States to the applicant for a term of one year, under the provisions of section 210 of the transportation act, 1920, as amended, to enable the applicant to meet the maturity of an equal principal amount of 5 per cent Elkhorn first-mortgage gold notes, which the applicant, by a supplement to its original application, filed September 15, 1920, represented to us it had been unable to dispose of in accordance with the terms and conditions of our certificate No. 4, except that it had succeeded in postponing until October 1, 1920, as to \$1,000,000, principal amount, of said notes, and until April 29, 1921, as to \$300,000, principal amount, of said notes, the time when the applicant must procure a new purchaser or take up the notes; that the applicant had been unable to induce the holder of the \$1,000,000 of notes, due October 1, 1920, to carry the same for any further period, and after negotiating with a number of bankers and financial institutions in the city of New York for the purpose of inducing them to purchase the notes, the applicant was of the opinion that it was exceedingly improbable at that time that any one could be induced to purchase the notes, except upon prohibitive terms.

On September 26, 1921, the applicant filed with us a further supplement to its application, requesting a further loan of \$1,000,000, under the provisions of section 210, for the specific purpose of meeting the maturity, on October 11, 1921, of the loan of like amount made pursuant to our certificate No. 28. In said supplement the applicant represented to us that the method of refunding the entire issue of \$6,000,000, principal amount, of 5 per cent Elkhorn first-mortgage gold notes (\$1,000,000 of which is pledged with the Secretary of the Treasury as collateral security for the loan made pursuant to our

certificate No. 28) had been under consideration by the directors and officers of the applicant for some time, and the necessary authority had been obtained from the directors and stockholders of the applicant for an issue in series of bonds of the applicant to be known as its first and consolidated mortgage gold bonds, to be secured by a mortgage upon substantially all of the applicant's properties, to an authorized amount not exceeding \$35,000,000, of which \$6,000,000 was, by the terms of the mortgage, to be set aside for the purpose of refunding the \$6,000,000 of 5 per cent Elkhorn mortgage gold notes; that the applicant heretofore expected that the sale of the proposed first and consolidated mortgage bonds, as aforesaid, could be made on favorable terms in sufficient time so that the proceeds thereof would be available for the payment of the loan of \$1,000,000 authorized by our certificate No. 28; and that, however, there has been no favorable market for the proposed bonds until recently, and steps are now being taken by the applicant to consummate their sale while conditions remain favorable. The applicant further represents that the necessary legal details in connection with the proposed issue will consume considerable time, and that, as it is now certain that the proceeds of the sale of the proposed bonds will not be available in time for use in paying the loan made pursuant to our certificate No. 28, the applicant requests us to certify an additional loan of \$1,000,000, for a term ending January 1, 1922, for the purpose of enabling it to meet the maturity of the loan of \$1,000,000 made under our certificate No. 28, as aforesaid, the proposed loan to be repaid to the United States out of the proceeds of the refunding of the 5 per cent Elkhorn first-mortgage gold notes by the issue and sale of the proposed first and consolidated mortgage bonds.

As security for the further loan of \$1,000,000, the applicant offers the same securities as are now pledged with the Secretary of the Treasury to secure the loan made pursuant to our certificate No. 28, namely, \$1,000,000 of 5 per cent Elkhorn first-mortgage gold notes, due by extension January 1, 1922, with interest at the rate of 6 per cent per annum; and \$500,000 of applicant's first-mortgage 5 per cent gold bonds, due June 1, 1938.

After investigation we are of the opinion that the making of an additional loan of \$1,000,000 by the United States to the applicant is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection

to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

One of the conditions of the loan will be that the applicant shall, on or before December 1, 1921, effectively finance the issue and sale to its stockholders, or others, at par, of the unissued part of the total principal amount of \$5,000,000 of the applicant's 6 per cent income debentures to which reference is made in our certificates Nos. 4 and 28 to the Secretary of the Treasury; and also that the applicant shall, on or before December 1, 1921, collect into its treasury the principal amount thereof.

Another condition of the loan will be that no payments shall be made by the applicant of any funded debt now existing or hereafter created until this loan shall have been repaid in full and all obligations in connection therewith are fulfilled, except that maturing car-trust obligations may be met out of net earnings or by the issue of obligations maturing after July 1, 1931, and except that \$6,000,000 of 5 per cent Elkhorn first-mortgage gold notes may be met out of net earnings or refunded by obligations maturing after July 1, 1931.

Another condition of the loan will be that in event the applicant shall fail or refuse well and truly to comply with either of the conditions aforementioned the entire indebtedness of the applicant to the United States under section 210 of the transportation act, 1920, as amended, shall immediately become due and payable.

An appropriate certificate will be issued.

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*Certificate No. 114 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$1,000,000 by the United States to the Carolina, Clinchfield & Ohio Railway, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet its maturing indebtedness, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$1,000,000.



4. That the loan is to be repaid in full on or before January 1, 1922.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the repledge of the following described securities now held by the Secretary of the Treasury pursuant to the terms of certificate No. 28, dated October 6, 1920: (1) Applicant's 5 per cent Elkhorn first-mortgage gold notes, principal amount, \$1,000,000, issued under an indenture of mortgage, dated February 1, 1917, executed and delivered by the applicant to the New York Trust Company, as trustee, said notes being a part of an authorized issue of \$6,000,000, principal amount, of said notes, all of which have been extended to January 1, 1922, with interest at the rate of 6 per cent per annum, pursuant to a supplement to said indenture of mortgage, dated December 15, 1919, between the applicant, the New York Trust Company, and the holders of said notes; and (2) applicant's first-mortgage 5 per cent 30-year gold bonds, principal amount, \$500,000, due 1938, issued under an indenture of mortgage, dated June 1, 1908, executed and delivered by the applicant to the Farmers' Loan & Trust Company as trustee.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.



(e) The applicant has agreed in an instrument in writing, dated the 10th day of October, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The applicant shall, on or before December 1, 1921, effectively finance the issue and sale to the stockholders, or others, at par of the unissued part of the total principal amount of \$5,000,000 of the applicant's 6 per cent income debentures to which reference is made in certificates Nos. 4 and 28 to the Secretary of the Treasury; and also that the applicant shall, on or before December 1, 1921, collect into its treasury the principal amount thereof; and (2) no payments shall be made by the applicant of any funded debt now existing or hereafter created until this loan shall have been repaid in full and all obligations in connection therewith are fulfilled, except that maturing car-trust obligations may be met out of net earnings or by the issue of obligations maturing after July 1, 1931, and except that \$6,000,000 of 5 per cent Elkhorn first-mortgage gold notes may be met out of net earnings or refunded by obligations maturing after July 1, 1931. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the entire indebtedness of the applicant to the United States under section 210 of the transportation act, 1920, as amended, shall become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 10th day of October, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1593.

IN THE MATTER OF THE APPLICATION OF THE  
AHUKINI TERMINAL & RAILWAY COMPANY, LIM-  
ITED, FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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*Submitted September 22, 1921. Decided October 7, 1921.*

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Authority granted to issue, by selling for cash at not less than par, \$620,000 of capital stock, the proceeds thereof to be used in constructing and equipping a line of railroad, pursuant to certificate of public convenience and necessity in *Public-Convenience Certificate to A. T. & Ry. Co.*, 70 I. C. C., 198.

*Henry Holmes and Ingram M. Stainback* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Ahukini Terminal & Railway Company, Limited, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of that act to issue, by selling at not less than par, \$620,000 of common capital stock. No objection has been offered to the granting of the authority requested.

It is proposed that the proceeds of such stock shall be used for the purposes of constructing and equipping a railroad on the island of Kauai, Territory of Hawaii, and for general expenses in connection therewith, as follows:

Constructing road.....	\$525, 000
Equipping road.....	80, 000
General expenditures .....	15, 000
Total .....	620, 000

These amounts are estimates only. Under our accounting classifications the amounts to be expended are chargeable to capital account.

The road to be constructed is a 30-inch gauge railroad, approximately 16 miles long, extending from a point near Anahola Bay to Ahukini Landing on Hanamaulu Bay in the District of Puna, Island of Kauai, Territory of Hawaii. By our certificate of public convenience and necessity dated July 16, 1921, in *Public-Convenience Certificate to A. T. & Ry. Co.*, *supra*, the applicant was authorized to construct and operate this railroad.

We find that the proposed issue of capital stock by the applicant, as aforesaid, (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Ahukini Terminal & Railway Company, Limited, be, and it is hereby, authorized to issue, by sale for cash at not less than par, 6,200 shares of common capital stock of the par value of \$100 each; the shares of stock so issued to be represented by certificates in the form submitted with the application; and the proceeds of such sale to be used solely in the construction and equipping of the line of railroad referred to in said report and for general expenditures thereon, as set forth in the application.

*It is further ordered*, That said stock shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, nor shall the proceeds thereof be used, in any manner or for any purpose except as herein authorized.

*It is further ordered*, That the applicant shall, for the period ending December 31, 1921, and for each six months' period thereafter, report to this commission, within 30 days after the close of such period, all pertinent facts relating (1) to the sale of said stock, and (2) to the application of the proceeds thereof, and continue to file such reports until all of said stock shall have been sold and all proceeds thereof applied; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

## FINANCE DOCKET No. 1038.

## IN THE MATTER OF THE APPLICATION OF THE WHEELING &amp; LAKE ERIE RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO MEET MATURING INDEBTEDNESS AND FOR OTHER PURPOSES.

*Submitted September 23, 1921. Decided October 14, 1921.*

Authority granted to divert \$385,511.65 of the proceeds of the loan certified in this proceeding under date of September 29, 1920, to the retirement of certain short-term notes. Original report, 65 I. C. C., 217.

*Squires, Sanders & Dempsey* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On September 29, 1920, we issued our report and certificate No. 24 to the Secretary of the Treasury, 65 I. C. C., 217, approving a loan of \$1,460,000 from the United States to the Wheeling & Lake Erie Railway Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to provide itself with additions and betterments consisting of:

	Estimated cost.
Additional yard tracks and engine terminal at Canton, Ohio.....	\$573,380
Yards and engine terminal at Jewett, Ohio.....	486,300
Car-repair shop, yard, transfer table, etc., at Brewster, Ohio.....	401,860
Total.....	1,461,540

On September 23, 1921, the applicant made application to us for authority to divert the unexpended balance of that part of the loan that was to be used in making improvements at Brewster, Ohio, amounting to \$385,511.65, to the retirement of short-term notes maturing October 22, 1921, as follows:

The Union Trust Company.....	\$50,000
The Union Trust Company.....	400,000
The Guardian Savings & Trust Company.....	150,000
The Guardian Savings & Trust Company.....	500,000
Total.....	1,100,000

The payee banking institutions are located in the city of Cleveland, Ohio.

## FINANCE DOCKET No. 1522.

## IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA &amp; SANTA FE RAILWAY COMPANY FOR AUTHORITY TO ACQUIRE CONTROL, BY LEASE, OF THE CALIFORNIA SOUTHERN RAILROAD.

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*Submitted October 6, 1921. Decided October 14, 1921.*

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Acquisition by the Atchison, Topeka & Santa Fe Railway Company of control of the California Southern Railroad, by lease, approved and authorized.

*Lee F. English* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Atchison, Topeka & Santa Fe Railway Company, a common carrier by railroad subject to the interstate commerce act, hereinafter called the Santa Fe, on July 13, 1921, filed an application pursuant to paragraph (2) of section 5 of the interstate commerce act, for an order authorizing it to acquire control, by lease, of the railroad of the California Southern Railroad Company, a common carrier by railroad subject to the interstate commerce act, hereinafter called the California. A hearing was held upon this application as provided by law. An application made by the California for permission to lease its railroad to the Santa Fe has been granted by the Railroad Commission of the State of California.

The Santa Fe Land Improvement Company, hereinafter called the improvement company, a corporation controlled by the Santa Fe, holds an option to purchase all the capital stock and bonds of the California. It is stated that it is its intention to exercise this option prior to December 31, 1921, its expiration date. The improvement company has filed its consent to the granting of this application.

The railroad of the California extends from a connection with the Santa Fe's railroad at Rice, Calif., in a general southerly direction to Ripley, Calif., a distance of 49.84 miles. It traverses the Palo Verde Valley, and its traffic consists largely of agricultural products and live stock. The greater portion of the tributary territory is irrigated and there is a considerable diversity in the agricultural products.

The California proposes to lease to the Santa Fe its railroad and all rights, privileges, and franchises pertaining thereto; for a term of 10 years, and thereafter from year to year, subject to the right of either party to terminate the lease at any time by giving to the other party 90 days' notice of its election so to do. By the terms of the proposed lease the Santa Fe is to pay to the California as rental the sum of \$1, and is to waive during the term of the lease all interest which accrues during such term upon evidences of indebtedness of the California which it owns. The Santa Fe further agrees to pay all interest accruing during the term upon any existing indebtedness of the California the evidences of which are not owned by it; all taxes, assessments, and governmental charges; all rentals and other sums which the California shall become liable to pay during the term for the use of any facility; and all expenses necessarily incurred by the California for maintaining its corporate organization. The proposed lease does not provide for the payment of any return on the capital stock of the California. The improvement company, on the exercise of its option to purchase, will own all the capital stock of the California and the Santa Fe owns all the capital stock of the improvement company. It follows that if any return on the capital stock of the California were provided for, the payment thereof would be a matter of bookkeeping between the improvement company and the Santa Fe.

The California has an authorized bonded indebtedness of \$750,000, of which \$350,000 is secured by a first mortgage and \$400,000 by a second mortgage. Under the first mortgage bonds to the amount of \$213,000 are outstanding, and the outstanding second-mortgage bonds amount to \$262,000. All the bonds bear interest at the rate of 6 per cent per annum. The authorized capitalization of the California is \$400,000, of which amount \$162,500 has been issued and is outstanding. All the issued capital stock of the California except \$12,000 and all its issued first-mortgage bonds have been pledged as collateral to secure an indebtedness to the Santa Fe, amounting to \$213,000, for materials and equipment furnished for the construction of the railroad. The railway operating revenues of the California for the year 1920 amounted to \$276,894.25, and its railway operating income for the same period was \$62,608.23. At the end of the year 1920 its road and equipment account showed an investment of \$855,557.29 and its profit-and-loss credit balance amounted to \$44,090.65.

The railroad of the California does not parallel or compete with that of the Santa Fe. The applicant claims that it can operate this railroad more efficiently as a branch of its system than it can be operated independently. The expenses due to a duplication of offi-

cial organizations will be eliminated. The proposed lease will enable the Santa Fe to effect economies in operation and accounting and will simplify the work of preparing reports required by State and Federal laws. The communities to be served will receive the benefits of the organization and greater facilities of the Santa Fe and the assurance of regular and dependable railroad service.

Upon the facts presented we find that the acquisition by the Santa Fe of control of the railroad and property of the California under the terms of the lease described in the application will be in the public interest. An order will be entered accordingly.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That the Atchison, Topeka & Santa Fe Railway Company be, and it is hereby, authorized to acquire control of the railroad and property of the California Southern Railroad Company in accordance with the terms of the lease described in the application and the report aforesaid.

70 I. C. C.



## FINANCE DOCKET No. 1540.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY FOR AUTHORITY TO EXECUTE AN INDEMNITY BOND.

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*Approved October 14, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, HALL, DANIELS, EASTMAN, AND POTTER.

## ORDER.

Investigation of the matters and things involved in this proceeding having been had:

*It is ordered,* That the application of the New York, New Haven & Hartford Railroad Company for authority to execute a certain indemnity bond in the sum of \$159,000 to the present stockholders of the Fruit Growers Express Company be, and the same is hereby, dismissed for want of jurisdiction.

70 I. C. C.

## FINANCE DOCKET No. 1594.

## IN THE MATTER OF THE APPLICATION OF THE WHEELING &amp; LAKE ERIE RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING-MORTGAGE BONDS.

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*Submitted September 24, 1921. Decided October 14, 1921.*

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Authority granted to issue \$125,000 of refunding-mortgage 6 per cent bonds, series C; said bonds to be pledged with the Secretary of the Treasury as partial security for a loan from the United States under section 210 of the transportation act, 1920, as amended.

*Squire, Sanders & Dempsey* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
By DIVISION 4:

The Wheeling & Lake Erie Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$125,000 of refunding-mortgage 6 per cent bonds, series C, for pledge with the Secretary of the Treasury as partial security for the last installment of a loan of \$1,460,000 from the United States under section 210 of the transportation act, 1920, as amended. No objection has been offered to the granting of the application.

By the provisions of its refunding mortgage, dated September 1, 1916, to the Central Trust Company of New York, the applicant is authorized to issue bonds to the amount of \$28,644,300, bearing interest at a rate of not more than 6 per cent per annum and maturing September 1, 1966, for the purpose, among others, of reimbursing its treasury for expenditures made for additions and betterments to its operating properties. Of this amount bonds amounting to \$7,070,000 have already been issued. The applicant shows that during the period from July 15, 1921, to July 31, 1921, it expended \$38,325.88 for new yard facilities at Canton and Jewett, Ohio, and between January 1, 1918, and July 1, 1921, \$87,174.55 for miscellaneous additions and betterments to roadway and structures along its right of way, making a total of \$125,500.43. No part of these expenditures having been heretofore capitalized the applicant is entitled under article second, section 4, of the refunding mortgage to draw down bonds in order to reimburse its treasury for the expenditures so made.

On October 12, 1920, in *Loan to Wheeling & Lake Erie Ry.*, 65 I. C. C., 278, this commission approved the above-mentioned loan of \$1,460,000. This loan was to be in four installments, three of which have already been obtained by the applicant. As security for the fourth installment of the loan, amounting to \$260,000, the commission required the applicant to pledge with the Secretary of the Treasury \$400,000 of its refunding-mortgage 6 per cent bonds, series C, and to furnish a surety bond guaranteeing the pledge of \$260,000 additional when available. By our order of March 28, 1921, in *Bonds of Wheeling & Lake Erie Ry.*, 67 I. C. C., 338, the applicant was authorized to pledge \$84,000 of these series-C bonds, and by our order of August 10, 1921, in *Bonds of Wheeling & Lake Erie Ry.*, 70 I. C. C., 333, the applicant was authorized to pledge \$451,000 of the same bonds as partial security for this fourth installment of the loan. The authority so granted enables the applicant to pledge the \$400,000 of bonds specified in connection with the first-mentioned requirement and have left \$135,000 of the additional \$260,000 of bonds to be pledged as guaranteed by the surety bond. Inasmuch as the fourth installment has not yet been drawn down it has been unnecessary for the applicant to file the surety bond, and the granting of the authority requested in this application will enable the applicant to pledge the entire \$260,000 of bonds without the filing of the surety bond.

We find that the proposed issue of refunding-mortgage bonds, series C, by the applicant as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

#### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Wheeling & Lake Erie Railway Company be, and it is hereby, authorized to issue not exceeding \$125,000, aggregate principal amount, of its refunding-mortgage bonds, series C, under and pursuant to, and to be secured by, the refunding mortgage dated September 1, 1916, made by the applicant to the Central Trust Company of New York; said bonds to bear interest at the rate of 6  
70 I. C. C.

per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature September 1, 1966; said bonds to be pledged with the Secretary of the Treasury as part security for an installment of \$260,000 of a loan to the applicant from the United States under section 210 of the transportation act, 1920, as amended, in the aggregate amount of \$1,460,000, as specified in this commission's certificate No. 24, dated October 12, 1920, in Finance Docket No. 1038.

*It is further ordered,* That, except as herein authorized to be pledged, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the pledge of said bonds, and (2) their release from pledge; such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1595.

IN THE MATTER OF THE APPLICATION OF THE  
WHEELING & LAKE ERIE RAILWAY COMPANY FOR  
AUTHORITY TO REPLEDGE BONDS AS SECURITY FOR  
NOTES.

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*Submitted September 24, 1921. Decided October 14, 1921.*

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Authority granted to repledge \$924,000 of refunding-mortgage 5 per cent bonds, series B, as collateral security for notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*Squire, Sanders & Dempsey* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Wheeling & Lake Erie Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to repledge \$924,000 of its refunding-mortgage 5 per cent bonds, series B, as collateral security for certain notes which it expects to issue within the limitations prescribed by paragraph (9) of section 20a of that act without our authorization therefor having first been obtained. No objection has been made to the granting of the application.

The applicant represents that it has outstanding the following promissory notes, dated October 22, 1920, bearing interest at the rate of 7½ per cent per annum and payable, on or before October 22, 1921, to the banking institutions named below, each of said notes being secured by the applicant's refunding-mortgage 5 per cent bonds, series B, as indicated:

Payee.	Amount.	Bonds pledged.
Union Commerce National Bank-----	\$50,000	\$78,000
Citizens Savings & Trust Company-----	400,000	625,000
Guardian Savings & Trust Company-----	150,000	235,000
Guardian Savings & Trust Company-----	500,000	775,000
Total-----	1,100,000	1,713,000

Since the execution and delivery of the above notes the Union Commerce National Bank and the Citizens Savings & Trust Company have been merged into the Union Trust Company, and this latter bank now holds the first and second notes listed above aggregating \$450,000, together with \$703,000 of the bonds pledged as collateral



*It is further ordered,* That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant, within 10 days after the repledge of any of its bonds as herein authorized, shall file with this commission certificate of notification to that effect; and within 10 days after the release of said bonds from said pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or notes, or interest thereon, on the part of the United States.

70 I. C. C.



## FINANCE DOCKET No. 1605.

IN THE MATTER OF THE APPLICATION OF THE  
FEDERAL VALLEY RAILROAD COMPANY FOR AU-  
THORITY TO ISSUE NOTES.

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*Submitted September 29, 1921. Decided October 14, 1921.*

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Authority granted to issue not exceeding \$30,560.60 of 7 per cent notes, maturing within 18 months from date, the proceeds to be used for corporate purposes as stated in the application.

*Talfourd P. Linn* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Federal Valley Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue, by selling at par, \$30,560.60 of its promissory notes payable on or before 18 months after date and bearing interest at 7 per cent per annum. No objection has been offered to the granting of the authority sought.

The applicant represents that the proceeds of the proposed notes are to be used in paying its obligations represented by notes of the aggregate amount of \$18,500; in paying indebtedness incurred in the maintenance of service; in repairing and replacing the right of way of the railroad, which was very severely damaged by recent floods; and in the creation of a larger working capital to enable it to maintain and improve its service.

The proposed notes will amount to more than 5 per cent of the par value of the applicant's outstanding securities. Its obligations, however, will not be increased by the issue, and it will thereby be enabled to meet its maturities and maintain efficiency in its operations.

We find that the proposed issue of notes by the applicant (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

**ORDER.**

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Federal Valley Railroad Company be, and it is hereby, authorized to issue at par, within 60 days after the date of this order, its promissory notes in an aggregate face amount not exceeding \$30,560.60, payable on or before 18 months after date, with interest at a rate not exceeding 7 per cent per annum, the proceeds thereof to be used for the purposes set forth in the application.

*It is further ordered*, That no part of the expenditures made from the proceeds of said notes shall at any time be used by the applicant as a basis for capitalization.

*It is further ordered*, That, except as herein authorized, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That the applicant shall within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the issue of said notes and (2) their payment or other satisfaction; each of said reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1077.

## IN THE MATTER OF THE APPLICATION OF THE JACKSONVILLE TERMINAL COMPANY FOR AUTHORITY TO ISSUE NOTES.

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*Submitted October 3, 1921. Decided October 17, 1921.*

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Authority granted to issue a note for \$70,000, payable to the order of the Florida National Bank, of Jacksonville, Fla., 90 days after date, with interest at not exceeding 7 per cent per annum, in the place of, and upon the maturity of, a note for \$67,500, dated July 24, 1921. Original report, 65 I. C. C., 415.

*Hartridge & Hartridge* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4. COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

By a supplemental application duly filed in this proceeding on October 3, 1921, the Jacksonville Terminal Company has requested authority to issue a promissory note for \$70,000, in place of, and upon the maturity of, a note for \$67,500, dated July 24, 1921, payable 90 days after date to the order of the Florida National Bank, of Jacksonville, Fla. The rate of interest on the proposed note will be 7 per cent per annum, which is the same rate borne by the maturing note.

In connection with the negotiation of the proposed \$70,000 note, a loan procured from the same bank for the benefit of the applicant by the Atlantic Coast Line Railroad Company, one of its proprietary tenants, will be reduced from \$72,500 to \$70,000. The indebtedness of the applicant will therefore not be increased by the issue of the proposed note.

The 90-day note for \$67,500 is a renewal issued in accordance with our order of November 24, 1920, in *Notes of Jacksonville Terminal Co.*, 65 I. C. C., 415, in which authority was granted to issue a note for that amount and renewals thereof from time to time for a period not exceeding two years, the maturity of the last note, however, not to extend beyond two years from the date of the order.

The proposed note and all other outstanding notes of the applicant of a maturity of two years or less will together aggregate more than 5 per cent of the par value of the applicant's outstanding securities.

We find that the proposed issue of a note for \$70,000 and renewals thereof by the applicant (*a*) are for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in the supplemental application filed in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which supplemental report is hereby referred to and made a part hereof:

*It is ordered*, That the order of this commission dated November 24, 1920, in the above-entitled proceeding, be, and it is hereby, modified so as to authorize the Jacksonville Terminal Company to issue its promissory note in the face amount of \$70,000, payable to the order of the Florida National Bank, of Jacksonville, Fla., 90 days after date, with interest at a rate not exceeding 7 per cent per annum, in the place of, and upon the maturity of, its promissory note dated July 24, 1921, payable to the order of the same bank 90 days after the date thereof.

*It is further ordered*, That the Jacksonville Terminal Company be, and it is hereby, authorized to issue, from time to time, a note or notes in renewal of said \$70,000 note, the maturity of the last note so issued not to extend beyond November 24, 1922.

*And it is further ordered*, That, except as herein modified, said order of November 24, 1920, shall remain in full force and effect.

**FINANCE DOCKET No. 1602.****IN THE MATTER OF THE APPLICATION OF THE SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE FIRST CONSOLIDATED MORTGAGE BONDS.**

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*Submitted September 27, 1921. Decided October 17, 1921.*

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Authority granted to sell not exceeding \$5,655,000 of first consolidated mortgage 5 per cent gold bonds for the purpose of providing funds for the redemption of an equal amount of first-mortgage bonds of the Georgia Pacific Railway Company which mature January 1, 1922. Terms and conditions prescribed.

*L. E. Jeffries* for applicant.

**REPORT OF THE COMMISSION.**

**DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.**

**By DIVISION 4:**

The Southern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue and sell \$5,655,000 of its first consolidated mortgage 5 per cent gold bonds for the purpose of providing funds for the redemption of an equal amount of first-mortgage 6 per cent gold bonds of the Georgia Pacific Railway Company. No objection has been made to the granting of the application.

Under the terms of the first consolidated mortgage dated October 2, 1894, as made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York) \$5,660,000 of the bonds issuable thereunder are reserved for the purpose of providing for the purchase, redemption, and acquisition by the trustee of a like amount of first-mortgage 6 per cent bonds of the Georgia Pacific Railway Company, which were outstanding and assumed by the applicant at the time of the merger of the companies in August, 1894. Consolidated-mortgage bonds in the sum of \$5,000 have heretofore been issued to acquire an equal amount of these underlying bonds. The present application, therefore, is for authority to provide for the redemption of \$5,655,000 of Georgia Pacific bonds which are now outstanding and which will mature on January 1, 1922.

The consolidated-mortgage bonds bear interest at the rate of 5 per cent per annum and will mature on July 1, 1994. The applicant states that it is not in a position to give the exact rate at which the

bonds can be sold, negotiations for their sale having been postponed pending our action herein. It proposes to get the best price obtainable, but requests our authority to sell them at not less than 81 per cent of par and accrued interest. The bonds will have 72½ years to run from January 1, 1922. On the basis of a selling price of 81, the annual cost to the applicant of discount and interest would be approximately 6.2 per cent.

The applicant's first consolidated mortgage 5 per cent bonds are currently quoted in the neighborhood of 85½. We are of the opinion that the proposed issue should be disposed of at approximately that figure, but in no event should the net return to the applicant, after payment of all commissions and other expenses of sale, be less than 81 per cent of the principal amount of the bonds sold.

We find that the proposed issue of first consolidated mortgage bonds by the applicant (*a*) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Southern Railway Company be, and it is hereby, authorized to issue not to exceed \$5,655,000, principal amount, of first consolidated mortgage gold bonds under and pursuant to, and to be secured by, the first consolidated mortgage dated October 2, 1894, made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York); said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on January 1 and July 1 in each year, and to mature July 1, 1994; said bonds to be sold for cash at the highest price obtainable, but in no event at a price lower than will be sufficient to net the applicant, after payment of any and all commissions and other expenses of sale, less than 81 per cent of the principal amount of bonds so sold and accrued interest; the proceeds of such sale to be applied exclusively to the payment of \$5,655,000,

principal amount, of the Georgia Pacific Railway Company's first-mortgage 6 per cent bonds which mature January 1, 1922.

*It is further ordered*, That, except as herein authorized, said first consolidated mortgage bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant nor the proceeds of the sale thereof be used, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the sale of said first consolidated mortgage bonds, the payment and cancellation of said Georgia Pacific Railway first-mortgage bonds, and the satisfaction and discharge of said first mortgage; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said first consolidated mortgage bonds or said Georgia Pacific first-mortgage bonds, or interest thereon, on the part of the United States.

70 I. C. C.



FINANCE DOCKET No. 59.

IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE ALABAMA & MISSISSIPPI RAILROAD COMPANIES FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted October 12, 1921. Decided October 21, 1921.*

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Certificate issued authorizing the receiver of the Alabama & Mississippi Railroad Companies to abandon their lines of railroad in Alabama and Mississippi.

*Robert H. Smith* for applicant.

*Willam H. Armbrecht* for protestants.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Alabama & Mississippi Railroad Company, a corporation of the State of Alabama, hereinafter called the Alabama, and the Alabama & Mississippi Railroad Company, a corporation of the State of Mississippi, hereinafter called the Mississippi, common carriers by railroad subject to the interstate commerce act, on September 7, 1920, filed their joint application, pursuant to paragraph (18) of section 1 of the interstate commerce act, for an order authorizing them to abandon their lines of railroad. A joint hearing was held for us by the Mississippi Railroad Commission and the Alabama Public Service Commission. The abandonment was opposed by a committee of citizens along the lines.

The railroad of the Alabama extends from Vinegar Bend, Ala., in a general southwesterly direction to the State line between Alabama and Mississippi, a distance of approximately 8.5 miles, where it connects with the line of the Mississippi, which extends from this connection in a general southerly direction to Pascagoula, Miss., an approximate distance of 67 miles. While the two companies have never been consolidated, they are controlled by the same interests, and since their inception their railroads have been operated as a continuous line and the results of operation have been included in joint accounts. Hereinafter, for the purposes of this report, the lines of the two companies will be treated as constituting one railroad.

The territory traversed by this road consists largely of cut-over timberlands, and most of the road's traffic has consisted of forest products. There has been a small agricultural development, but this has not afforded sufficient traffic to appreciably affect the operating revenues. During the year 1920 only three carloads of agricultural products originated on this line. The passenger traffic is negligible. It is stated that a large part of the inbound and outbound traffic from the territory tributary to this road is hauled by trucks. For the five years ending December 31, 1920, operations resulted in a net deficit of \$51,658.14, of which \$28,661.81 was incurred in 1920. It appears reasonably clear that this line can not be operated except at a loss.

The principal points along the road are Vinegar Bend, Leakesville, Evanston, Moss Point, and Pascagoula, and all of these points, except Leakesville, are served by other railroads. Leakesville is a town of approximately 400 people located upon the Chickasawhay River, and this river permits the rafting of timber to Pascagoula. There is one large lumber mill at Leakesville, and it is stated that its proprietary company owns sufficient timber to enable it to continue operations for one year. It appears that the company owning this mill also owns a logging road, the terminus of which will be less than a mile from the terminus of another logging road now in course of construction. The connecting of these logging roads would afford this lumber company a continuous rail line from its mill to the Gulf, Mobile & Northern Railroad.

It further appears that this line is in poor physical condition, and that large repairs would be required to bring the track to a state of normal maintenance. The applicant offered testimony to the effect that the necessary repairs would cost from \$150,000 to \$200,000.

The outstanding bonded indebtedness of applicants amounts to \$184,000, of which \$91,000 was issued by the Alabama corporation and \$93,000 by the Mississippi corporation. All of these bonds are owned by the Vinegar Bend Lumber Company, which is controlled by the same interests that control the railroad companies. At the end of the year 1920 the road and equipment account showed an investment of \$560,332.

Subsequent to the hearing in this case, the United States District Court for the Southern District of Mississippi appointed R. V. Taylor receiver for the two companies. On April 30, 1921, the Mississippi Railroad Commission and the Alabama Public Service Commission reported to us that in the petition filed in the United States court for the appointment of a receiver the interested parties requested that as soon as the receiver had been in possession of the railroad for a sufficient length of time he report to the court whether

or not it would be possible, in his opinion, for this railroad to be continued as a self-sustaining railroad and whether or not its maintenance would be for the public service and good. The two State commissions thereupon recommended that further consideration of this application by us be deferred until the receiver should have had an opportunity to make his report to the court.

The report of the receiver was filed with the court May 27, 1921, On June 28, 1921, the court entered an order in which it is recited, among other things, that the court is of the opinion that it is not practicable to continue to operate the Alabama & Mississippi Railroad as a through railroad from Vinegar Bend, Ala., to Pascagoula, Miss.; that no reasonable business hope exists that the said railroad can be so operated profitably in the future; that the operation of the railroad as a through line is not justified and should be discontinued. The order further recited that the court was of the opinion that the railroad should be divided into three sections as follows, (1) from Vinegar Bend to Leakesville, Miss., and Koon's Mill, Miss.; (2) from Koon's Mill to Luce's Farm, Miss., or Evanston, Miss.; (3) from Luce's Farm or Evanston to Pascagoula; that sections 1 and 3 should be offered for sale for continued operation with the right in the purchaser to discontinue operations at once or hereafter; that if no bid satisfactory to the receiver were made for these sections for continued operation, then the receiver should have the right to withdraw this offer and to offer these sections for sale as scrap or junk; that section 2 should be sold for scrap or junk without any effort to continue its operation. Thereupon the court ordered the receiver to intervene in this proceeding and to attempt to procure leave from this commission to abandon the railroad and its public franchises and to offer for sale the railroad with its rolling stock, equipment, lands, and other property, the railroad to be divided into three sections as hereinabove set forth. By our order entered on August 9, 1921, the receiver was substituted as applicant herein.

Since the entry of the above order the Mississippi Railroad Commission has filed with us its recommendations that a certificate be issued permitting the abandonment of the entire road, and stating that in its opinion provision for the sale of the road in sections should be left to the United States court. These recommendations further recite that since the filing of the receiver's report the attorney representing the interests which originally opposed the abandonment has recommended to it, in writing, that it, in turn, recommend to this commission that we grant the certificate prayed for. The Alabama Public Service Commission is also of the opinion that the line should be abandoned and recommends that the application be granted.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the line of railroad in question. A certificate to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the receiver of the Alabama & Mississippi Railroad Companies of the lines of railroad of said companies extending from Vinegar Bend, Ala., to Pascagoula, Miss., described in the application and report aforesaid.

*It is ordered,* That the said receiver be, and he is hereby, authorized to abandon said lines of railroad.

*It is further ordered,* That the said receiver, when filing schedules canceling tariffs applicable to said lines of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

FINANCE DOCKET No. 1559.

IN THE MATTER OF THE APPLICATION OF THE PERE  
MARQUETTE RAILWAY COMPANY FOR A CERTIFI-  
CATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted October 13, 1921. Decided October 21, 1921.*

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Certificate issued authorizing the abandonment of a branch line of railroad in  
Clare County, Mich.

*John C. Bills* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Pere Marquette Railway Company, a carrier by railroad subject to the interstate commerce act, on August 19, 1921, filed an application for a certificate that the present and future public convenience and necessity permit the abandonment of a branch line of the applicant's railroad extending from the station of Harrison to the station of Leota, both in Clare County, Mich., a distance of 9.88 miles. No representations were made by the authorities of the State of Michigan either for or against the granting of the application. The case was submitted without formal hearing.

The line in question, completed in 1897, was built primarily as a logging road. However, as the land has been cleared farming has been taken up to some extent. The largest source of the applicant's tonnage has been forest products, and as this has been practically exhausted, applicant requests permission to abandon. There are no cities or towns on the line, and no protests have been received regarding the proposed abandonment. The territory served is thinly populated and is decreasing in population each year. Nearly 150 of the inhabitants, or about 20 per cent, have moved away during the past 10 years. Although considerable low-grade traffic has moved over this line during the past two years, the fact that no protests have been received, that the population is decreasing, that the forest products have practically been exhausted, and that there is no prospect of any increase in freight or passenger traffic would indicate that there is no longer such demand for service on this branch as would justify a denial of the application.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment by the applicant of its branch line of railroad herein described. A certificate to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Pere Marquette Railway Company of its line of railroad between Harrison and Leota, Mich., described in the application and report aforesaid.

*It is ordered,* That said Pere Marquette Railway Company be, and it is hereby, authorized to abandon said line of railroad.

*It is further ordered,* That said Pere Marquette Railway Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1581.

## IN THE MATTER OF THE APPLICATION OF THE ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY FOR AUTHORITY TO ISSUE PRIOR-LIEN BONDS.

*Submitted September 26, 1921. Decided October 21, 1921.*

Authority granted to issue \$4,578,000 of prior-lien mortgage bonds, series C; said bonds, or any part thereof, to be pledged and repledged, from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*W. F. Evans* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The St. Louis-San Francisco Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$4,578,000 of its prior-lien 6 per cent gold bonds, series C, for pledge and repledge from time to time, as collateral security for any note or notes which it may issue within the limitations prescribed by paragraph (9) of section 20a of the interstate commerce act without our authorization having first been obtained. No objection to the granting of the application has been made.

The prior-lien mortgage dated July 1, 1916, made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York) and Daniel K. Catlin, authorizes a total issue of bonds not exceeding \$250,000,000. Article two of the mortgage provides that bonds shall be authenticated by the trustee and delivered to the applicant for certain purposes specified therein. Of amounts so reserved, bonds have heretofore been issued, and now remain available for issue, as follows:

Purpose of issue.	Amount reserved.	Authenticated and delivered.	Balance issuable.
Section 4: For refunding, paying, purchasing, or otherwise acquiring a like face amount of certain equipment-trust notes.....	\$5,306,000	\$3,883,000	\$1,423,000
Section 5: For acquisition, by construction or purchase, by the applicant or by any controlled or subsidiary company of other lines of railroad and terminals, including terminal facilities.....	45,000,000	645,000	44,355,000
Section 6: For construction by the applicant or by any controlled or subsidiary company of additional second, third, and fourth main track, for purchase of additional real estate, for making of improvements and betterments, etc.....	32,500,000	6,792,000	25,708,000



In support of the issue here proposed the applicant submits that it expended out of income since January 1, 1920, \$901,000 for redeeming equipment-trust notes described in section 4, and between July 1, 1919, and December 31, 1920, \$13,500 and \$3,663,500, respectively, for purposes stated in sections 5 and 6.

The bonds bear interest at the rate of 6 per cent per annum, mature July 1, 1928, and are redeemable on 60 days' notice at a premium of 2½ per cent. For the reason that the bonds can not be disposed of advantageously at this time by sale, the applicant desires authority to pledge them, at not less than 75 per cent of their principal amount, as collateral security for short-term notes.

We find that the proposed issue of prior-lien bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the St. Louis-San Francisco Railway Company be, and it is hereby, authorized to issue not exceeding \$4,578,000, principal amount, of prior-lien mortgage gold bonds, series C, under and pursuant to, and to be secured by the prior-lien mortgage dated July 1, 1916, made by it to the Central Trust Company of New York (now the Central Union Trust Company of New York) and Daniel K. Catlin; said bonds to be dated July 1, 1918, to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1 in each year, and to mature July 1, 1928; said bonds, or any part thereof, to be pledged and repledged, from time to time, until otherwise ordered by this commission, as collateral security for any note or notes which may be issued by the applicant within the limitations of paragraph (9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained; said pledge or pledges to be in the ratio of not exceeding \$125 of bonds in value at their prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant, within 10 days after the pledge or repledge of any of its bonds as herein authorized, shall file with this commission certificates of notification to that effect; and within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 66.

IN THE MATTER OF THE APPLICATION OF THE NEW  
YORK, NEW HAVEN & HARTFORD RAILROAD COM-  
PANY FOR AUTHORITY TO ISSUE PROMISSORY  
NOTES AND TO ISSUE AND PLEDGE EQUIPMENT-  
TRUST NOTES.

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*Submitted October 22, 1921. Decided October 24, 1921.*

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Authority granted to sell \$1,602,000 of equipment-trust notes, class A, the proceeds of such sale to be used toward payment of certain promissory notes. Terms and conditions prescribed. Previous report, 65 I. C. C., 289.

*E. G. Buckland* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

By a supplemental application duly filed in this proceeding on October 22, 1921, the New York, New Haven & Hartford Railroad Company has requested authority to sell \$1,602,000 of its equipment-trust notes, class A, and to use the proceeds of such sale toward the payment of a like amount of promissory notes for which the equipment-trust notes have been pledged as collateral security.

By our order herein dated October 16, 1920, 65 I. C. C., 289, we authorized the applicant to issue \$2,000,000 of six months' promissory notes bearing interest at the rate of 7 per cent per annum and renewable for like periods during an aggregate period of three years, the notes or proceeds thereof to be used in connection with the purchase of equipment. We also authorized the issue of \$2,800,000 of equipment-trust notes, class A, bearing interest at the rate of 7 per cent per annum, and authorized the pledge of \$2,000,000 of them as collateral security for the promissory notes. The \$2,000,000 of equipment-trust notes were so pledged and \$136,000 of these pledged notes, having matured prior to the filing of this supplemental application, have been paid, resulting in the cancellation of a like amount of promissory notes.

The first renewals of the promissory notes mature on October 25, 1921. By arrangement with the banks through which these notes were negotiated, the applicant proposes to sell the following equipment-trust notes, aggregating \$1,602,000, at such price that the total

70 I. C. C.

cost to it of the sale thereof shall not exceed  $7\frac{1}{2}$  per cent per annum on the proceeds.

Nos. 137 to 1017, inclusive.	Nos. 1646 to 1710, inclusive.
Nos. 1068 to 1133, inclusive.	Nos. 1761 to 1826, inclusive.
Nos. 1184 to 1248, inclusive.	Nos. 1877 to 1941, inclusive.
Nos. 1299 to 1364, inclusive.	Nos. 1992 to 2057, inclusive.
Nos. 1415 to 1479, inclusive.	Nos. 2108 to 2172, inclusive.
Nos. 1530 to 1595, inclusive.	Nos. 2223 to 2288, inclusive.

The proceeds of this sale are to be used to pay the promissory notes as security for which the equipment-trust notes were pledged.

This arrangement is conditioned upon the redemption by the applicant of the remainder of the equipment-trust notes pledged as security for the promissory notes, being the last four semiannual maturities of the equipment-trust notes authorized by the order of October 16, 1920, herein. These notes aggregate \$262,000 in principal amount and are numbered as follows:

Nos. 2339 to 2403, inclusive	Due Apr. 1, 1934.
Nos. 2454 to 2519, inclusive	Due Oct. 1, 1934.
Nos. 2570 to 2634, inclusive	Due Apr. 1, 1935.
Nos. 2685 to 2750, inclusive	Due Oct. 1, 1935.

We find that the proposed sale of equipment-trust notes, class A, by the applicant (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in the supplemental application having been had:

*It is ordered*, That the New York, New Haven & Hartford Railroad Company, having heretofore been authorized by the order of the commission dated October 16, 1920, to pledge \$2,000,000 of its equipment-trust notes, class A, as collateral security for loans evidenced by certain promissory notes in a like aggregate amount, of which \$136,000 has been repaid, be, and it is hereby, authorized to sell equipment-trust notes, class A, so pledged, aggregating \$1,602,000, numbered as follows:

Nos. 138 to 1017, inclusive.	Nos. 1646 to 1710, inclusive.
Nos. 1068 to 1133, inclusive.	Nos. 1761 to 1826, inclusive.
Nos. 1184 to 1248, inclusive.	Nos. 1877 to 1941, inclusive.
Nos. 1299 to 1364, inclusive.	Nos. 1992 to 2057, inclusive.
Nos. 1415 to 1479, inclusive.	Nos. 2108 to 2172, inclusive.
Nos. 1530 to 1595, inclusive.	Nos. 2223 to 2288, inclusive.

said equipment notes to be sold at such price that the total cost to the applicant of the sale thereof shall not exceed  $7\frac{1}{2}$  per cent per annum on the proceeds, including in such cost interest, discounts, commissions, and all other expenses of sale in connection therewith; the proceeds of such sale to be used exclusively toward the payment of said promissory notes for an aggregate like amount for which said equipment notes are pledged as security: *Provided, however,* That as a condition precedent to such sale the applicant shall redeem the last four semiannual maturities of said equipment-trust notes, class A, as follows:

Nos. 2389 to 2403, inclusive.....Due Apr. 1, 1934.

Nos. 2454 to 2519, inclusive.....Due Oct. 1, 1934.

Nos. 2570 to 2634, inclusive.....Due Apr. 1, 1935.

Nos. 2685 to 2750, inclusive.....Due Oct. 1, 1935.

*It is further ordered,* That the applicant shall report to this commission within 10 days thereafter, respectively, all pertinent facts relating to the redemption and sale of said equipment-trust notes, class A, and the payment of said promissory notes, such reports to be signed and verified by one of its executive officers having knowledge of the facts.

*And it is further ordered,* That, except as herein modified, said order of October 16, 1920, shall remain in full force and effect.

70 I. C. C.

FINANCE DOCKET No. 1000.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

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*Submitted September 22, 1921. Decided October 24, 1921.*

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Upon supplemental application and consideration thereof, certificate of December 15, 1920, so amended as to provide for the making of the loan for equipment in installments, for a reduction in the amount of such loan, and for a change in the conditions of repayment. Previous report, 65 I. C. C., 376. *E. G. Buckland* for applicant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On December 15, 1920, we issued our certificate No. 49 to the Secretary of the Treasury, *Loan to New York, New Haven & Hartford R. R.*, 65 I. C. C., 376, approving the making of a loan of \$9,630,000 by the United States to the New York, New Haven & Hartford Railroad Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to provide itself with equipment and other additions and betterments.

The loan was to be made in two parts, as follows: \$1,500,000 for equipment, and \$8,130,000 for additions and betterments. That part of the loan for additions and betterments has already been consummated and is not now under consideration.

On September 22, 1921, the applicant made application to us for an amendment of that portion of our certificate No. 49 with respect to the loan of \$1,500,000 made to it for the purchase of equipment, as follows:

To provide for a loan of \$1,400,000.

To provide for a term of 14 years.

To provide for the making of the loan in installments as follows: \$400,000 on November 1, 1921, \$500,000 on December 1, 1921, and \$500,000 on January 1, 1922.

To provide for securing the installments of the loan as follows: Upon the making of installment No. 1, \$660,000 first and refunding mortgage bonds and \$400,000 class-B equipment notes are to be pledged; upon the making of installment No. 2, \$400,000 class-A equipment notes are to be pledged; and upon the making of the final installment there are to be pledged \$400,000 class-A notes and \$200,000 class-B notes.

One full year of the trust has expired, and with it \$100,000 of class-B notes, which applicant has canceled.

The equipment will be delivered in installments, beginning the latter part of the current month and continuing until the end of the year, and for this purpose the applicant desires to take down the loan in three monthly installments. The applicant proposes to take down the first installment of the loan by the pledge of the bonds and class-B notes, and then, as the equipment is delivered, to procure the required amount of class-A and class-B notes to secure the second and third installments to make up the full security required by certificate No. 49, repayments of the loan in annual and semiannual installments to coincide with the maturity of these equipment notes.

After investigation, we find that the required authority should be granted, and our certificate of December 15, 1920, will be amended accordingly.

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*Amendment to Certificate No. 49 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 49 of December 15, 1920, to the Secretary of the Treasury, approving the making of a loan of \$9,630,000 by the United States to the New York, New Haven & Hartford Railroad Company, by changing paragraphs 1, 3, 5(a), and 5(d) to read as follows:

1. That the making of a loan of \$9,530,000 in two parts, as hereinafter set forth, by the United States to the New York, New Haven & Hartford Railroad Company, hereinafter referred to as the applicant, for the purpose of aiding the applicant in providing itself with equipment and additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

3. That the amount of the loan which is to be made is \$9,530,000, of which \$1,400,000 is to be in respect of equipment, and \$8,130,000 is to be in respect of additions and betterments.

[5] (a) The loan in respect of equipment, namely, \$1,400,000, shall be made in 1 installment of \$400,000 November 1, 1921, and 2 installments of \$500,000 each, December 1, 1921, and January 1, 1922, and shall be repaid in 6 equal annual installments of \$100,000 maturing October 1 of each of the years 1922 to 1927, inclusive, and in 16 equal



semiannual installments of \$50,000 maturing April 1 and October 1 of each of the years 1928 to 1935, inclusive. This part of the loan shall be secured by the pledge of the following described securities:

1. Applicant's class A, 7 per cent prior-lien equipment-trust notes, principal amount \$800,000, as hereafter identified in denomination of \$1,000 and numbered as follows:

Nos. 1018 to 1067, inclusive.	Nos. 1942 to 1991, inclusive.
Nos. 1134 to 1183, inclusive.	Nos. 2058 to 2107, inclusive.
Nos. 1249 to 1298, inclusive.	Nos. 2173 to 2222, inclusive.
Nos. 1365 to 1414, inclusive.	Nos. 2289 to 2338, inclusive.
Nos. 1480 to 1529, inclusive.	Nos. 2404 to 2453, inclusive.
Nos. 1596 to 1645, inclusive.	Nos. 2520 to 2569, inclusive.
Nos. 1711 to 1760, inclusive.	Nos. 2635 to 2684, inclusive.
Nos. 1827 to 1876, inclusive.	Nos. 2751 to 2800, inclusive.

2. Applicant's class-B 6 per cent deferred-lien equipment-trust notes, \$600,000 principal amount, as hereinafter identified, in denomination of \$100,000, and numbered 2 to 7, inclusive. The prior-lien and deferred-lien equipment-trust notes hereinabove set forth are issued under equipment-trust agreement EE, dated October 22, 1920, and executed by the New England Car Company, the applicant, and the Old Colony Trust Company, as trustee, a copy of which agreement is hereto annexed and made a part hereof.<sup>1</sup>

3. Applicant's first and refunding mortgage 15-year series-B 6 per cent gold bond, due October 31, 1935, principal amount, \$660,000, issued under an indenture of mortgage dated December 9, 1920, and executed by the applicant to the Bankers Trust Company of New York, as trustee. Said bond, which is in temporary form without coupons and numbered TB-1, is issued in lieu of and exchangeable for definitive coupon bonds of the same series and substantially identical in tenor, in the denomination of \$1,000, and numbered BM-1 to BM-660, inclusive.

4. Upon the making of the first installment of the loan there shall be pledged \$660,000, principal amount, of applicant's first and refunding mortgage bonds and \$400,000, principal amount, of applicant's class-B 6 per cent deferred-lien equipment-trust notes; upon the making of the second installment of the loan there shall be pledged \$400,000, principal amount, of applicant's class-A 7 per cent prior-lien equipment-trust notes; and upon the making of the final installment of the loan there shall be pledged \$400,000, principal amount, of class-A notes, and \$200,000, principal amount, of class-B notes; all of said securities being the same securities as are hereinbefore described.

[5] (d) The applicant may repay all or any portion of the loan before maturity. When and as any repayment is made upon either part of the loan, the collateral securing that part of the loan shall be released proportionately, except that in effecting such release preference shall be given to the collateral which has matured or which bears the earliest date of maturity.

Done at Washington, D. C., this 24th day of October, 1921.

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<sup>1</sup> On file with the commission, but omitted from printed report.

## FINANCE DOCKET No. 1500.

IN THE MATTER OF THE APPLICATION OF THE DELTA  
SOUTHERN RAILWAY FOR A CERTIFICATE OF PUB-  
LIC CONVENIENCE AND NECESSITY.

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*Submitted October 18, 1921. Decided October 25, 1921.*

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Certificate issued authorizing the abandonment of lines of railroad in the counties of Washington, Bolivar, Sharkey, Leflore, Sunflower, and Humphreys, in the State of Mississippi.

*A. F. Gardner, Carl Fox, and C. O. Amonette* for applicant.

*W. M. Whittington and T. E. Mortimer* for protestants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Delta Southern Railway, a carrier by railroad subject to the interstate commerce act, filed an application on June 24, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of its lines of railroad located in the counties of Washington, Bolivar, Sharkey, Leflore, Sunflower, and Humphreys, Miss. Upon our request, a hearing was held by the Mississippi Railroad Commission, which has recommended that the application be granted.

The applicant's railroad consists of three branch lines in the east-central part of the State of Mississippi, described as follows:

1. The Richey branch, beginning at a point of connection with the Columbus & Greenville Railroad at Percy, Washington County, and extending thence in a southeasterly direction to Richey, Sharkey County, a distance of 10.45 miles.

2. The Napanee branch, beginning at a point of connection with the Columbus & Greenville Railroad at Elizabeth, Washington County, and extending thence in a northerly direction to Kergs Junction and Angosta, Bolivar County, a distance of 14.47 miles.

3. The Belzoni branch, beginning at a point of connection with the Columbus & Greenville Railroad at Itta Bena, Leflore County, and extending thence in a southwesterly direction to Belzoni, Humphreys County, a distance of 27.19 miles.

The total main-line mileage of the applicant is 52.11 miles of single-track standard-gauge steam railroad. In addition, the applicant has sidings, spurs, and industrial tracks aggregating 5.74 miles.

The lines were constructed primarily to open up new territory. The Richey branch was completed in September, 1906; the Belzoni branch in November, 1906; and the Napanee branch in September, 1907. The lines were built under contract and the funds to pay for the construction were advanced by the Southern Railway Company. Subsequently, that company was reimbursed by the issuance to it of \$49,500 of the applicant's capital stock and \$1,058,000 of its first-mortgage 4 per cent bonds. .

From the beginning of its operations as a common carrier, the applicant's road was operated continuously by the Columbus & Greenville Railroad Company, formerly the Southern Railway in Mississippi, under a contract providing that either party thereto might terminate it by giving to the other 10 days' notice in writing of its intention.

The Columbus & Greenville Railroad Company operated the lines of the applicant until January 15, 1921, on which date it gave written notice to the applicant of its election to cancel the operating contract as of January 30, 1921. Notwithstanding this notice, which was accepted by the applicant, a verbal arrangement was effected between the parties to the contract by which the Columbus & Greenville Railroad Company continued to operate the lines upon the terms contained in the canceled contract, until June 4, 1921. On that date a receiver was appointed for the Columbus & Greenville Railroad Company, who took charge of its property. The receiver, having been given no authority by the court appointing him to operate the lines of the applicant, discontinued their operation on June 19, 1921, and they have not been operated since that date.

The original cost of the lines which it is proposed to abandon was \$950,688.40. This amount was advanced by the Southern Railway Company. Since the beginning of the operation of the applicant's lines the Southern Railway Company has made the following additional advances:

To pay deficit from operation to December 31, 1920-----	\$539, 397. 21
To pay for construction-----	7, 445 .43
To pay interest on bonds to January 1, 1921-----	580, 070. 00
Total additional advances-----	1, 126, 912. 64

To the Columbus & Greenville Railroad Company \$28,556.59 is due, as shown by the applicant's balance sheet, that sum being the deficit from operation of the lines for the four months ended April 30, 1921, three months of which operation was conducted under the arrangement above referred to after the cancellation of the written contract.

The Southern Railway Company owns all of the \$50,000 capital stock of the applicant, except five shares held by the directors, and all of the \$1,058,000 of its bonds. All of the stock and all of the bonds have been pledged by the Southern Railway Company under its development and general mortgage 4 per cent gold bonds. It is urged by the applicant that the effect of the proposed abandonment upon its capital obligations would not be to decrease their value.

It is pointed out that no money now is being expended for the maintenance of the property and it is deteriorating daily; that the salvage value of the lines is constantly decreasing; and that the applicant already is largely indebted to the State of Mississippi for taxes, and such taxes will continue to accrue until abandonment is effected. Suit has been instituted for the collection of taxes past due. No provision has been made, and apparently none can be made, for the payment of other debts of the applicant which do not constitute liens upon the property, as no funds are available for the purpose, and none will be available unless the property can be sold for a sum sufficient to pay them as well as the bonded indebtedness.

The applicant owns no rolling stock or equipment of any kind, it has no money or credit by which it can raise the money necessary to operate its lines, and it submits that further operation, therefore, is impossible. Even if the applicant owned the necessary equipment, it urges that it could not derive sufficient revenue from the lines to pay operating expenses, because the towns, villages, and communities which it serves have not enough business, now or in prospect, to supply the traffic needed.

The districts traversed by lines of the applicant are served in some measure by the lines of the Yazoo & Mississippi Valley Railroad Company, by craft on the Yazoo and Sunflower Rivers, and by lines of autotrucks which operate on some of the highways.

In no year of its history have the earnings of the applicant been sufficient to pay its operating expenses, and it has been compelled to borrow money each year to meet its taxes and other expenses. Its deficit in net operating revenues for the approximate 15 years of its operation is shown to be \$344,345.32; its deficit in operating income, \$494,603.52; and its total deficit, including interest on bonds, and other deductions, \$1,231,737.08.

On January 3, 1921, a decree was entered by the United States District Court for the Western Division of the Southern District of Mississippi ordering the sale of all of the applicant's property to satisfy a claim of \$1,791,593.02. Subsequently, on June 4, 1921, by a supplementary decree of the same court, the applicant was directed to make application to us for permission to abandon its lines, and, if

that permission should be granted, the master and commissioner appointed by the former decree was directed to sell the applicant's property to the best advantage, offering, first, the lines as a whole, and, if unsuccessful, then each separately. The decree provides further:

At said sale the right of discontinuance of operating the lines as carriers shall go to the purchaser in the event that the certificate referred to above is obtained from the Interstate Commerce Commission.

At the hearing held by the Mississippi Railroad Commission no protest was made against the abandonment of the Richey and Napanee branches, but evidence was adduced indicating the necessity of at least a limited railroad service on the Belzoni branch. While that branch evidently carried more than one-third of the traffic of the applicant during the period of its operation, it was admitted by the protestants that, under the conditions hitherto existing, it could not be so operated as to pay expenses.

As the hearing progressed, it became evident that at least a tentative organization of citizens and business concerns of Belzoni and Itta Bena had been formed to purchase the Belzoni branch and operate it as a local-service line, provided that could be done without incurring the obligations and responsibilities of a common carrier. The Mississippi Railroad Commission is of the opinion that some such plan will be consummated.

Upon the facts presented, we find that the present and future public convenience and necessity permit the abandonment of the lines of railroad in question. A certificate to that effect will be issued.

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*Certificate of Public Convenience and Necessity.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment, by the Delta Southern Railway, of its lines of railroad in the counties of Washington, Bolivar, Sharkey, Leflore, Sunflower, and Humphreys, in the State of Mississippi, described in the application and report aforesaid.

*It is ordered,* That the said Delta Southern Railway be, and it is hereby, authorized to abandon said lines of railroad.

*It is further ordered,* That the said Delta Southern Railway when filing schedules canceling tariffs applicable to said lines of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

**FINANCE DOCKET No. 1523.****IN THE MATTER OF JOINT APPLICATION FOR AUTHORITY BY THE CHESAPEAKE & OHIO RAILWAY COMPANY TO ACQUIRE THE PROPERTY OF THE CHESAPEAKE & OHIO NORTHERN RAILWAY COMPANY AND TO ASSUME OBLIGATIONS.**

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*Submitted October 15, 1921. Decided October 25, 1921.*

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1. Proposed acquisition by the Chesapeake & Ohio Railway Company of the railroad and property of the Chesapeake & Ohio Northern Railway Company approved and authorized.
2. Authority granted the Chesapeake & Ohio Railway Company to assume the obligation of the Chesapeake & Ohio Northern Railway Company to pay the principal of \$1,000,000 of its first-mortgage 5 per cent 30-year gold bonds and interest thereon.

*W. S. Bronson* for applicants.

**REPORT OF THE COMMISSION.**

**DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.**

**By Division 4:**

The Chesapeake & Ohio Railway Company, hereinafter called the Chesapeake, and the Chesapeake & Ohio Northern Railway Company, hereinafter called the Northern, common carriers by railroad subject to the interstate commerce act, on July 15, 1921, filed their joint application for:

(a) A certificate that the present and future public convenience and necessity require, or will require, the operation by the Chesapeake of the line of railroad of the Northern, and permit the abandonment by the Northern of the operation of said line of railroad coincident with the assumption of its operation by the Chesapeake; or

(b) An order approving and authorizing the acquisition by the Chesapeake of the control of the line of the Northern through the conveyance to it of the properties, rights, and franchises of the Northern; or

(c) Both such certificate and order; and

(d) An order authorizing the Chesapeake to assume direct liability for the outstanding bonds of the Northern, and upon the mortgage securing the same.



Due notice of the filing of the application was given and a hearing was held thereon. The Virginia Corporation Commission has approved the application. No representations have been made by any of the other State authorities either in favor of or against the granting of the application. An intervening petition filed by the Robert Grace Contracting Company was withdrawn prior to the hearing.

The railroad of the Northern extends from a connection with the Chesapeake's line at Edgington, Ky., in a general northerly direction to Waverly, Ohio, a distance of approximately 29.8 miles. The Northern also operates over the Norfolk & Western Railroad, under the terms of a trackage agreement, from Waverly north to a connection with the Hocking Valley Railway at Valley Crossing, near Columbus, Ohio, a distance of approximately 62 miles. These lines do not parallel or compete with the Chesapeake's line, but constitute an extension thereto.

The Chesapeake, in 1914, caused the Northern to be incorporated and the Northern thereupon constructed the railroad and acquired the trackage rights above described. The purpose of the construction, as stated by the applicants, was to provide a system line of railroad shorter, more efficient, and less expensive of operation than existing joint through routes, in order to facilitate the transportation of bituminous coal from mines on the line of the Chesapeake to the Great Lakes and the Northwest through the Toledo gateway by way of the Hocking Valley Railway, which is controlled by the Chesapeake through stock ownership. The railroad of the Northern has been operated as a part of the Chesapeake's railroad system since its completion and the operating returns of the Northern have been included in the Chesapeake's reports. Applicants assert that the proposed conveyance will enable the Chesapeake to operate the line of the Northern more efficiently and will effect economies in operation and accounting.

The Northern has an authorized bonded indebtedness of \$1,000,000, consisting of first-mortgage 5 per cent 30-year gold bonds, all of which are outstanding in the hands of the public. All of these bonds are guaranteed, principal and interest, by the Chesapeake by indorsement. The Chesapeake acquired at par all the issued and outstanding capital stock of the Northern, amounting to \$4,028,600, excepting 21 shares held by the directors. The Chesapeake is also the owner of all of the floating and other indebtedness of the Northern except certain current operating accounts and certain unsettled construction accounts now in litigation, the liability upon all of which will be assumed by the Chesapeake under the proposed conveyance. The general balance sheet of the Northern of April 30, 1921, showed

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an investment in road and equipment of \$5,602,145.67 and a profit-and-loss credit balance of \$457,736.17.

By the terms of the proposed deed, the Northern, in consideration of \$1 and other good and valuable considerations, conveys and assigns to the Chesapeake its railroad and all its other property, assets, rights, and franchises, subject to a certain mortgage dated October 1, 1915, executed and delivered by the Northern to the Commercial Trust Company of Philadelphia, to secure an issue of \$1,000,000 of first-mortgage 5 per cent 30-year bonds. As a part of the purchase price of the property the Chesapeake agrees to assume the due and punctual payment of the principal and interest of the first-mortgage bonds and all the lawful debts, contracts, liabilities, and obligations of the Northern. All of these bonds, which constitute the Northern's entire outstanding bonded indebtedness, were issued prior to the effective date of section 20a of the interstate commerce act and in accordance with the terms of the mortgage securing them. At the time of the execution of the mortgage the Chesapeake executed and delivered to the trustee under the mortgage an agreement in writing whereby the Chesapeake unconditionally guaranteed payment of the principal of all of the bonds issued under the above mortgage. The Chesapeake now proposes to become primarily and directly liable upon these \$1,000,000 of bonds.

The outstanding capital stock of the Northern, now owned by the Chesapeake, is carried in the accounts of the Chesapeake as securities owned. If the proposed conveyance is consummated the road and equipment investment of the Northern will appear on the books of the Chesapeake as an addition to its road and equipment account, and the capital stock of the Northern will be carried in the accounts of the Chesapeake under a valuation of \$1. For practical purposes the capital stock of the Northern will be canceled as a liability of the Northern and as an asset of the Chesapeake. It is stated by the applicants that the effect of the proposed conveyance will be to change an equitable title to the property into a legal title and a guarantor into a principal.

Upon the facts presented we find (1) that the acquisition by the Chesapeake & Ohio Railway Company of the railroad of the Chesapeake & Ohio Northern Railway Company under the terms of the deed described in the application will be in the public interest; and (2) that the proposed assumption by the Chesapeake & Ohio Railway Company of the obligation of the Chesapeake & Ohio Northern Railway Company to pay the principal of \$1,000,000 of its first-mortgage 5 per cent 30-year gold bonds and interest thereon (a) for lawful objects within its corporate purposes and compatible with the public interest, which are necessary and appropriate for

and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

COMMISSIONER EASTMAN dissents.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That said Chesapeake & Ohio Railway Company be, and it is hereby, authorized to acquire by purchase the property, rights, and franchises of the Chesapeake & Ohio Northern Railway Company, in accordance with the terms of the deed described in the application and report aforesaid.

*It is further ordered*, That said Chesapeake & Ohio Railway Company, when filing schedules establishing rates and fares to and from points on said line of railroad, shall in such schedules make specific reference to this order by title, date, and docket number.

*It is further ordered*, That as part consideration for the acquisition of the properties, rights, and franchises of the Chesapeake & Ohio Northern Railway Company, the Chesapeake & Ohio Railway Company be, and it is hereby, authorized to assume the obligation of the Chesapeake & Ohio Northern Railway Company to pay the principal of \$1,000,000 of its first-mortgage gold bonds, and interest thereon, issued under and pursuant to and secured by the first mortgage made October 1, 1915, by the Chesapeake & Ohio Northern Railway Company to the Commercial Trust Company of Philadelphia, trustee, said bonds being dated October 1, 1915, maturing October 1, 1945, and bearing interest at the rate of 5 per cent per annum, payable semiannually on April 1 and October 1 in each year.

*It is further ordered*, That, within 10 days after the assumption of the obligation of the Chesapeake & Ohio Northern Railway Company as herein authorized, the Chesapeake & Ohio Railway Company shall report to this commission all pertinent facts relating thereto, said report to be signed and verified by one of its executive officers having knowledge of the facts contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to said bonds or interest thereon.

## FINANCE DOCKET No. 1574.

## IN THE MATTER OF THE APPLICATION OF THE GRAND TRUNK WESTERN RAILWAY COMPANY FOR AUTHORITY TO INCUR INDEBTEDNESS IN CONNECTION WITH PURCHASE OF THE LANSING CONNECTING RAILROAD.

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*Submitted September 26, 1921. Decided October 25, 1921.*

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Proposed execution of contract for purchase of the Lansing Connecting Railroad and payment therefor held not to be within the provisions of section 20a of the interstate commerce act. Application dismissed.

*Harrison Geer* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Grand Trunk Western Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to execute an agreement between the applicant and the Lansing Connecting Railroad for the purchase of the line of railroad and other property of the latter.

On August 17, 1921, the applicant and the Lansing Connecting Railroad entered into a preliminary agreement, a copy of which was filed with the application, whereby the Lansing Connecting Railroad agrees to sell to the applicant all of its line of railroad and other property including a certain parcel of land described in the preliminary agreement, and the applicant agrees to pay therefor the sum of \$40,000, to be paid \$5,000 in cash on the execution of a final agreement and \$35,000 in annual installments of \$5,000 or more until the full purchase price is paid, together with interest at the rate of 6 per cent per annum, payable semiannually, on any unpaid installments. The applicant is to be given possession of the line of railroad and other property immediately upon the signing of the final agreement and is to have full right to operate the line of railroad pending the payment of the remainder of the purchase price. Upon completion of the payment of the purchase price, the Lansing Connecting Railroad is to execute and deliver a good and sufficient deed to the property and is to assign to the applicant all its rights or interests under all contracts, franchises, licenses, or permissions.

Execution of the final agreement, which is to be in such form as is approved by the attorneys for the parties thereto and is merely to embody in more formal terms the provisions of the preliminary agreement, is contingent upon the action taken by the commission on the application.

( It appears that the applicant does not propose to issue any note or notes covering the deferred payments, and is not to assume obligation or liability as lessor, lessee, guarantor, indorser, or otherwise in respect of securities of the Lansing Connecting Railroad. It therefore appears that the only "security" for the issue of which authority is sought is the final agreement into which the applicant contemplates entering with the Lansing Connecting Railroad. This is not regarded as a security within the meaning of paragraph (2) of section 20a of the interstate commerce act, and we are of the opinion that we have no jurisdiction over the contract or agreement in question. We are not here passing on the question of our authority under other provisions of the interstate commerce act. )

An order will be entered dismissing the application.

#### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the application of the Grand Trunk Western Railway Company for authority to execute the final agreement described in the said report be, and it is hereby, dismissed.

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## FINANCE DOCKET No. 1484.

## IN THE MATTER OF THE APPLICATION OF THE VALLEY &amp; SILETZ RAILROAD COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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*Submitted August 24, 1921. Decided October 28, 1921.*

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1. Authority granted to issue \$700,000, par amount, of capital stock, to be exchanged for outstanding notes and interest.
2. Application for authority to transfer outstanding stock dismissed.

*W. Lair Thompson* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Valley & Siletz Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to issue \$700,000 of capital stock, to be exchanged for outstanding notes and interest thereon, and (2) to transfer \$300,000 of stock of the corporation now outstanding from C. T. Mitchell and F. J. Cobbs, trustees, to the William W. Mitchell Company. No objection has been made to the granting of the application.

The transfer of stock does not fall within the purview of the interstate commerce act, and authorization therefor by us is not required. The portion of the application asking authority for such transfer will therefore be dismissed.

The applicant is incorporated under the laws of Oregon with an authorized capital stock of \$1,000,000, of which \$300,000 has been issued. It has no funded debt, but has outstanding demand notes in the aggregate face amount of \$673,800, on which interest has accrued in the sum of \$192,547.44, a total of \$866,347.44. These notes are held by stockholders in the company and represent funds loaned principally for construction of the road. The applicant proposed to issue \$700,000 of stock and to exchange \$673,800 of it at par for the demand notes. The remainder of \$26,200 will be applied against the interest, reducing it to \$166,347.44.

The applicant's balance sheet at March 31, 1921, shows investment in road and equipment of \$1,051,430.56 and a profit-and-loss debit balance of \$98,075.31. The holders of the notes have agreed that this debit balance may be charged against the interest owing to them, thus further reducing the amount of such interest.

The effect of the whole transaction will be the substitution of capital stock for interest-bearing demand notes, a reduction in the annual interest charges of over \$40,000, the elimination of the debit balance, and the reduction of interest unpaid from \$192,547.44 to \$68,272.13.

We find that the issue and exchange of capital stock by the applicant for the purpose described herein (a) are for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Valley & Siletz Railroad Company be, and it is hereby, authorized to issue \$700,000, par amount, of capital stock, to be exchanged at par for \$673,800, face amount, of its demand notes now outstanding, and in payment, satisfaction, and discharge of \$26,200 of the interest due thereon; the said notes to be canceled when and as acquired.

*It is further ordered*, That, except as herein authorized, said stock shall not be issued, sold, pledged, or repledged, used, or disposed of in any manner whatever, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter all pertinent facts relating to the issue and exchange of said stock and the cancellation of said demand notes, such report to be in writing, verified by an executive officer of the applicant having knowledge of the facts stated therein.

*It is further ordered*, That the portion of said application in which authority is asked to transfer \$300,000 of stock of the corporation be, and it is hereby, dismissed.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

## FINANCE DOCKET No. 938.

IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO PARTIALLY REIMBURSE HIM FOR EXPENDITURES.

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*Submitted October 20, 1921. Decided October 29, 1921.*

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Application granted and loan of \$785,000 approved.

*W. H. Lyford* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, AND EASTMAN.

BY DIVISION 4:

William J. Jackson, receiver of the Chicago & Eastern Illinois Railroad Company, operating the line of that company as a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on May 28, 1920, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, to enable him to purchase equipment and to make certain additions and betterments to equipment and to way and structures.

On June 19, 1920, and January 20 and October 20, 1921, the applicant amended and supplemented the application by reducing the amount of the loan and changing the purposes of the loan and the uses to which it will be applied.

In the application, as amended and supplemented, the applicant sets forth:

1. That the amount of the loan desired is \$785,000.
2. That the term for which the loan is desired is 15 years.
3. That the purposes of the loan and the uses to which it will be applied are to partially reimburse the applicant for expenditures made by him since the termination of Federal control for maturing indebtedness and for equipment and other additions and betterments, as follows:



Purpose.	Amounts.	Totals.
<b>Maturing indebtedness:</b>		
Equipment-trust obligations paid and retired March 1, 1920, to September 1, 1921:		
Series G.....	\$248,000.00	.....
Series H.....	677,000.00	.....
U. S. Trust No. 15.....	49,400.00	.....
Evansville & Terre Haute first consolidated mortgage bonds, due July 1, 1921.....	2,935,000.00	.....
Total maturing indebtedness.....		3,909,400
<b>Equipment:</b>		
12 passenger cars.....	42,342.30	.....
Improvements to locomotives.....	21,030.63	.....
Improvements to freight-train cars.....	180,513.25	.....
Improvements to passenger-train cars.....	15,676.21	.....
Improvements to work equipment.....	4,025.83	.....
Total equipment.....		263,588.22
<b>Additions and betterments:</b>		
Miners' waiting room at Jackson.....	340.39	.....
Water facilities at Yard Center.....	72,387.09	.....
New freight and passenger station at Salem.....	1,443.89	.....
Water station at Holland.....	6,518.99	.....
Water station at Goreville (enlarging reservoir).....	16,281.00	.....
Reclamation plant at Oaklawn, rebuilt account destruction by fire.....	4,011.23	.....
Water-station facilities at Mount Vernon, Ill.....	16,883.67	.....
Single-track bridge at Morocco and Beaver Creek.....	11,071.02	.....
Renewal of bridges at Haney.....	10,904.39	.....
Replacing bridge 2289 at Smith, Ind., with ballast-deck trestle.....	5,487.67	.....
Tile drains, ditching, and bank widening.....	10,856.00	.....
Betterment of rail and track fastenings and additional fastenings applied to existing tracks.....	164,705.73	.....
Highway crossings, crossing houses and gates, and crossing signs.....	6,058.28	.....
Roadway buildings.....	721.30	.....
Pipe openings and renewal and reinforcement of bridges.....	11,045.79	.....
Shops and engine houses.....	10,100.92	.....
Fuel stations.....	323.10	.....
Paving and sidewalks.....	4,167.48	.....
Station and office buildings and furniture.....	12,368.90	.....
Drainage systems.....	7,296.53	.....
Motor cars and small roadway machines.....	3,319.88	.....
Right of way.....	4,688.95	.....
Mine and industry tracks.....	104,699.06	.....
Water stations.....	4,904.33	.....
Shop machinery.....	502.18	.....
Wash and locker rooms.....	24,149.37	.....
Station and shop tracks.....	19,515.53	.....
Signals and interlockers.....	5,470.35	.....
Private telephones.....	374.17	.....
Miscellaneous items, less than \$200 each.....	7,814.00	.....
Total additions and betterments.....		548,391.84
Grand total.....		4,721,340.06

4. The present and prospective ability of the applicant to repay the loan and to meet his obligations in regard thereto.

5. That the security offered is the cash proceeds of the loan subject to substitution as and when issued on or before January 1, 1922, of \$981,250, principal amount, of prior-lien mortgage bonds of the Chicago & Eastern Illinois Railway Company, a corporation duly organized and existing under and by virtue of the laws of the State of Illinois for the purpose of receiving title to the railroad under foreclosure and sale and of operating the same.

6. That the extent to which the public convenience and necessity will be served is indicated by the following statement, quoted from the application:

The applicant is engaged in the carriage of coal from 77 operating coal mines along the lines of railroad which have been sold and will be acquired by said new railway company, if the reorganization plan referred to in the

answer to the next succeeding question 8 is carried out. The applicant is also engaged in the transportation of miscellaneous freight, passengers, mail, and express. Under normal conditions, the traffic over said lines of railroad constantly increases, and it is necessary for the proper operation of said railroad and to afford adequate service to the public that large amounts should be expended annually for additions and betterments and new equipment. As more fully stated in the answer to said question 8, the receiver has no credit which would enable him to borrow money in the money market for such additions and betterments and new equipment, and the necessary credit therefor can only be obtained by carrying out said plan of reorganization, and thereby replacing or satisfying \$113,923,707 of securities and accrued and unpaid interest by the issue or assumption of \$93,586,250 of new securities (including \$1,052,500 of bonds to be pledged with the United States as margin or additional security for loans) and the use of available cash under the control of the applicant, a cash assessment of \$30 per share upon the stock of the old railroad company, and the proceeds of said loan of \$785,000. The making of said loan is necessary to the carrying out of said reorganization plan.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation as we deemed pertinent to the inquiry.

The Association of Railway Executives recommended a loan to the applicant of \$888,000 upon its original application for the purpose of enabling the applicant to make additions and betterments to promote the movement of freight traffic; but the association has made no recommendation to us in respect of the amendments and supplement to the application.

We have heretofore granted the application of the railway company for authority to issue securities included in the plan of reorganization, *Securities of Chicago & Eastern Illinois Ry.*, 67 I. C. C., 61, 762, part of which are tendered as collateral security for the proposed loan to the applicant.

After investigation, we find that the making of the requested loan by the United States for the purposes and in the amount hereinbefore set forth is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the property in possession of the applicant and character and value of the security offered afford reasonable assurance of repayment of the loan within the time fixed therefor and the meeting of the other obligations in connection with such loan and reasonable protection to the United States; and that the applicant is unable to provide himself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

*Certificate No. 116 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$785,000 by the United States to William J. Jackson, receiver of the Chicago & Eastern Illinois Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of partially reimbursing the applicant for expenditures made by him for maturing indebtedness, and equipment and other additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the property in the possession of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of repayment of the loan within the time fixed therefor, and the meeting of the other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$785,000.

4. That the time from the making thereof within which the loan is to be repaid in full is 15 years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge, as and when issued prior to January 1, 1922, of \$981,200, principal amount, of prior-lien mortgage 40-year series-A 6 per cent bonds, due 1961, of the Chicago & Eastern Illinois Railway Company, a corporation duly organized and existing under and by virtue of the laws of the State of Illinois. Said bonds consist of one temporary bond, numbered T-1, without coupons, exchangeable for definitive coupon bonds of the same series and aggregate principal amount, substantially identical in tenor and of authorized denominations when prepared.

Pending the pledge of the bonds, the cash constituting the loan shall be pledged as security for the loan and shall be released to the applicant only as and when and to the extent ratably the bonds are pledged, in lieu of the cash, as collateral security for the loan. During the time the cash is thus held in pledge it may be invested in certificates of indebtedness of the United States, at current market value, which certificates may be pledged in lieu of the cash, until the bonds, as aforesaid, shall have been substituted therefor.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, he shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the appli-

cant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

6. That the prospective earning power of the property in possession of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of repayment of the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide himself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 31st day of October, 1921.

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## FINANCE DOCKET No. 945.

IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS, AND IN MEETING MATURING INDEBTEDNESS.

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*Submitted October 6, 1921. Decided October 29, 1921.*

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Upon supplemental application and consideration thereof certificate of November 9, 1920, so amended as to provide for the extension of time within which the entire loan for additions and betterments shall have been expended or definitely obligated for the purposes for which loaned. Previous report, 65 I. C. C., 371.

*M. L. Bell* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONER MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

On November 9, 1920, we issued our report and certificate No. 42 to the Secretary of the Treasury in *Loan to Chicago, Rock Island & Pacific Ry.*, 65 I. C. C., 371, approving the making of a loan by the United States of \$7,862,000 to the Chicago, Rock Island & Pacific Railway Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to provide itself with additions and betterments.

One of the conditions of the loan was that the applicant should furnish us on or about July 1, 1921, and January 1, 1922, progress reports of the expenditures from the loan and that the entire loan shall have been expended or definitely obligated on or before January 1, 1922.

On September 7, 1921, pursuant to the requirements of said certificate No. 42, applicant by its vice president and general counsel, *M. L. Bell*, filed a certificate of its chief engineer, showing a total expenditure from the proceeds of the loan as of June 30, 1921, of \$2,670,464.70, and that at the date of the certificate, September 3, 1921, improvements requiring expenditures aggregating \$4,529,854 had been contracted for and were in progress.

70 I. C. C.

On October 6, 1921, the applicant made application to us for an amendment of that portion of our certificate No. 42, section 3 of paragraph 5 (*d*), to provide that the time fixed within which the applicant is required to expend, or definitely obligate itself for expenditures involving, the entire loan for additions and betterments may be extended to and including July 1, 1922.

The applicant represents that it is now continuing the work of making the additions and betterments as rapidly as the economical administration of its affairs and the economical purchase of materials and supplies will enable it to do, and that applicant estimates by the end of the year 1921 the sum of \$5,500,000 will have been expended, or contracted to be expended, for work actually in progress at the end of the year, and plans will be under way for expending the balance of the loan, but actual contracts will not have been entered into at that time. Applicant shows that on some commodities there has been a substantial decline in prices since the loan was made.

The applicant further represents to us that on account of the economical policy it has adopted with reference to the expenditures of the funds derived from the loan, it is unable to complete by January 1, 1922, its additions and betterments program as contemplated by the loan, but that with ordinary efficient and economical management the entire program should be completed or contracted for not later than July 1, 1922.

After investigation we find that the required extension of time should be granted, and our certificate of November 9, 1920, will be amended accordingly.

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*Amendment to Certificate No. 42 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 42, of November 9, 1920, to the Secretary of the Treasury, approving the making of a loan of \$7,862,000 by the United States to the Chicago, Rock Island & Pacific Railway Company by changing paragraph 5 (*d*) thereof to read as follows:

(*d*) The applicant has agreed in an instrument in writing, dated the 1st day of November, 1920, supplemented the 1st day of November, 1921, and filed with the Interstate Commerce Commission, to the following conditions: (1) That the amount to be financed by it in connection with the loan shall be so financed that the cost to it of any loan secured from sources other than the United States Government shall not exceed 7½ per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection therewith; (2) the expenditures made from the loan shall be confined to such expenditures as may be chargeable to accounts for

investment in road and equipment provided in the commission's accounting classification for steam roads, in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission, on or about January 1 and July 1, 1922, the detailed certificate, under oath, of its chief engineer, showing the character and costs of the additions and betterments made with, or in connection with, this loan for said purposes. The entire loan, together with the entire amount to be financed by the applicant, shall have been expended or definitely obligated for the purposes for which loaned, or the entire loan shall be repaid to the United States, on or before July 1, 1922.

Done at Washington, D. C., this 3d day of November, 1921.

70 I. C. C.



## FINANCE DOCKET No. 1451.

## IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE HAWKINSVILLE &amp; FLORIDA SOUTHERN RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted October 7, 1921. Decided October 29, 1921.*

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Certificate issued authorizing the receiver of the Hawkinsville & Florida Southern Railway Company to abandon the line of that company.

*Sanders McDaniel, L. L. Oliver, J. E. Hall, and C. O. Amonette* for applicant.

*Benjamin Gilham* for protestants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

H. H. Pogram, receiver of the Hawkinsville & Florida Southern Railway Company, hereinafter called the receiver, operating the line of said company as a carrier by railroad subject to the interstate commerce act, on May 19, 1921, filed an application, pursuant to paragraph (18) of section 1 of the interstate commerce act, for an order authorizing the abandonment of the line of that company, hereinafter referred to as the Hawkinsville, which he is now operating under order of court. Numerous letters have been received from shippers and other interested persons protesting against the proposed abandonment. A hearing was held for us by the Railroad Commission of Georgia, and that commission has filed with us its recommendations that the application be denied. These recommendations are entitled to and have received our careful consideration. At the hearing a protest was filed on behalf of the Macon Chamber of Commerce and a committee representing some of the citizens of the counties through which the road runs.

The Hawkinsville was placed in the hands of the receiver by the superior court of Bibb County, Ga., on July 17, 1920. That court, on May 9, 1921, entered an order in the receivership proceedings by which it was adjudged and decreed "that the further operation of the property of the defendant is useless and wasteful and should be terminated in order that the properties and estate of the defendant should not be needlessly consumed." This order further re-

cited that "the court is of the opinion that the property of the defendant can not be sold as a going concern, and that as soon as possible the operation of said property should be abandoned and the road should be scrapped and sold." The court thereupon directed the receiver to make this application for permission to abandon operation of the road.

The road of the Hawkinsville extends from Hawkinsville, Ga., in a general southerly direction to Worth, Ga., a distance of 42.32 miles, and from Ashburn, Ga., to Camilla, Ga., a distance of 50.67 miles. The connecting link between Worth and Ashburn, 2.9 miles, is formed by the tracks of the Georgia Southern & Florida Railway Company, hereinafter called the Georgia, over which the Hawkinsville has trackage rights. The Hawkinsville also has trackage rights over 0.49 mile of the Southern Railway Company's tracks into the union station at Hawkinsville.

That portion of the road from Pitts, Ga., to Worth, approximately 17 miles, was built by the Enterprise Lumber Company as a saw-mill or tram road. In 1896 this mill road was sold to the Hawkinsville, and the latter company constructed approximately 25 miles of railroad extending the line from Pitts to Hawkinsville. The line from Ashburn to Bridgeboro, Ga., was also constructed as a tram or sawmill road, and in 1911-1912 this portion of the line was extended from Bridgeboro to Camilla in an effort to create a common-carrier railroad. On August 1, 1913, the Hawkinsville purchased the line from Ashburn to Camilla, paying therefor \$261,000 in its series-B 5 per cent bonds, guaranteed by the Georgia, and receiving also from the sellers \$43,000 in cash for rehabilitation.

The road of the Hawkinsville is intersected by other railroads at nine points. The northern part of the line is paralleled by the Georgia Southern & Florida Railroad at a distance of approximately 12 miles and the southern part of the line is paralleled by the Atlanta, Birmingham & Atlantic Railroad on the east and the Georgia Southwestern & Gulf Railroad on the west at average distances of 15 miles. No point on the line of the Hawkinsville is distant more than 9.5 miles from another railroad. Most of the stations are at short distances from other railroads, which can be reached over good highways. This road traverses an agricultural territory containing some timber. Most of the timber contiguous to this line has been cut. A large part of the standing timber is as near to other railroads as it is to applicant's line. There is no evidence to show when this timber will be cut or what part of it would move over the Hawkinsville road. The manufacturing industries of importance along the line are located at points served by other railroads. The only town of importance that would be left without railroad facilities

by the proposed abandonment is Pineview. This is a place of about 500 inhabitants and is located 4.88 miles from another railroad, with which it is connected by a good highway, and it appears that in the territory served by the Hawkinsville's railroad it is not unusual to haul products a much longer distance.

On the part of the protestants evidence is offered tending to show that the territory served is developing agriculturally, and that a substantial increase may be anticipated in the business available to the Hawkinsville. A large number of business establishments are enumerated as being wholly or partially dependent upon the line for transportation facilities. It is contended that there will be a serious loss in real-estate values in that territory if the line is abandoned. It is obvious, however, that the hope of increased business in the future can hardly prevail against the results of actual experience in the operation of the line. The net result of the proposed abandonment as regards shippers is summarized by protestants, as follows: Shippers at Camilla, Hawkinsville, Sylvester, and Ashburn will be placed at a disadvantage because their industries are located on the industry tracks of the Hawkinsville and on no other line; shippers in several small communities will be left entirely without railroad service, and an abandonment would adversely affect two-thirds of the population of Baker County, to whom the Hawkinsville line has been made accessible by the construction of an expensive highway bridge; and several points which are now competitive will be rendered noncompetitive, to the detriment of the shipping interests.

Protestants also contend, in effect, that the Hawkinsville line is in reality a part of the Georgia, which, in turn, is controlled by the Southern through stock ownership, and that, therefore, the controlling principle of the case is found in our decision in *Public-Convenience Application of G. B. & W. R. R.*, 70 I. C. C., 251, issued July 27, 1921, wherein the rule was announced that considerations must be given to the business of the carrier as a whole. It is obvious, however, that that principle is not to be extended so as to include operating losses of a carrier in the operation of its affiliated companies, since that view would disregard rights of the minority. Nor do we think the question of profit and loss is a matter to be passed upon by the courts alone. Such a construction of paragraph (18) of section 1 would condemn the provision on constitutional grounds, since any refusal on our part to consider operating losses might very well, in cases like the present one, result in a denial of the application, so that the effect of the paragraph would then be to require the carrier to continue to operate at a loss, and amount to confiscation.

The Georgia owns the entire capital stock of the Hawkinsville, amounting to \$100,000, and it, in turn, is controlled by the Southern

Railway Company through ownership of a majority of the capital stock. There is, however, a substantial minority interest. While the Georgia and the Hawkinsville are independent corporate entities, and their railroads have been separately operated, many of their officers are also officials of the Southern Railway Company. The Hawkinsville has an authorized bonded indebtedness of \$661,000, of which \$571,000 is in the hands of the public, \$15,000 is owned by the Georgia, and \$35,000 is pledged as collateral for a demand note of \$25,000. The bonds in the hands of the public and those pledged as collateral are guaranteed, principal and interest, by the Georgia. The applicant states that the continued operation of the railroad will decrease the security of these obligations as the property is being consumed in its operation. At the end of the year 1920 its road and equipment account showed an investment of \$715,165.07. From June 1, 1913, to December 31, 1920, railway operations resulted in a deficit of \$408,643.97. In no succeeding year have the operating revenues equaled those for the year ending June 30, 1914. It appears that during the intervening period the officials and employees of the Hawkinsville have actively solicited business for the road, and the Georgia and the Southern Railway Company endeavored to procure the routing of traffic over its line, and have given it liberal divisions of through rates. In many cases these divisions have exceeded the local rate from the junction point where the business was received. It is stated that the traffic of the road is mostly local and that the revenues have been adversely affected by automobile and truck competition. The administration expenses of the road have been abnormally low because the salaries of many of the officials and employees have been prorated with affiliated lines. Operations by the receiver from July 17, 1920, to June 31, 1921, resulted in a net railway operating deficit of \$136,212.41. For the year ending December 31, 1920, the earnings per mile were \$1,861 and the expenses \$3,429. Testimony was offered by the applicant to the effect that the maximum gross revenue per annum for the next five years would not exceed \$200,000, equal to \$2,075 per mile. This estimate appears high in view of the fact that the operating revenues for the first six months of 1921 were only \$69,479.87. The operating expenses for the past 16 months averaged \$3,362 per mile. The low operating costs were largely due to deferred maintenance.

The road of the Hawkinsville is in poor physical condition. The rails are from 27 to 41 years old, and large renewals must be made to bring the track to a state of normal maintenance. The applicant offered testimony to show that 63,000 ties should be replaced and large repairs made to bridges and trestles. The estimated cost of the

required work is \$174,888.76. Some of the rail renewals might be temporarily delayed, but the minimum requirements would cost \$145,772.81.

There is outstanding a receiver's certificate for \$10,000, which is due and unpaid. The receiver testified that he was without funds to pay this certificate or the taxes on the property. He further testified that the operating revenues would not pay the fuel bill and pay rolls; that he is unable to borrow more money, and can not continue to operate the road. It appears clear that the road has not been, and can not be, operated except at a loss. It may be that a method can be found of preserving for the use of the industries served by the line certain of the spur tracks and other terminal facilities which it may be found practicable to turn over to other carriers serving the several localities and thus mitigate, to some extent, the inconvenience and loss that admittedly must be felt by shippers who now have no other service at hand.

In our opinion the receiver should first offer for sale the entire railroad as a going concern for continued operation. If no satisfactory bid is received, the receiver should withdraw the above offer and offer the road for sale in sections for continued operation, and if no satisfactory bid is received for any section or sections, then the receiver should offer for sale any and all section or sections remaining unsold as scrap or junk. Reasonable publicity should be given the above offers in the territory to be affected. At competitive points an opportunity should be afforded shippers and connecting carriers to purchase the spur tracks and other terminal facilities.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the line of railroad in question. A certificate to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the receiver of the Hawkinsville & Florida Southern Railway Company, of the line of railroad of said company extending from Hawkinsville, Ga., to Camilla, Ga., described in the application and report aforesaid.

*It is ordered*, That the said receiver be, and he is hereby, authorized to abandon said line of railroad.

*It is further ordered*, That the said receiver, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1578.

## IN THE MATTER OF THE APPLICATION OF THE CENTRAL VERMONT RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING BONDS.

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*Submitted October 4, 1921. Decided October 29, 1921.*

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Application granted and loan of \$128,000 approved.

*E. Deschenes* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Central Vermont Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on September 7, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to enable the applicant to meet its maturing indebtedness.

In the application, as amended and supplemented, the applicant sets forth:

1. That the amount of the loan desired is \$128,000.
2. That the term for which the loan is desired is five years.
3. That the purpose of the loan and the use to which it will be applied are to enable the applicant to pay off and discharge a like principal amount of \$616,400 of applicant's 4 per cent first-mortgage gold bonds, due May 1, 1920.
4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.
5. That the security offered is \$171,000 of applicant's refunding-mortgage 5 per cent gold bonds, due May 1, 1930.
6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to preserve its identity and financial standing.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the



ability of the applicant to make good the obligation as we deemed pertinent to the inquiry.

After investigation we find that the making of the proposed loan by the United States, for the purpose and in the amount hereinabove set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant and character and value of the security offered afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 115 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$128,000 by the United States to the Central Vermont Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet its maturing indebtedness is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$128,000.

4. That the time from the making thereof within which the loan is to be repaid in full is five years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$171,000 of applicant's refunding-mortgage 5 per cent gold bonds, due 1930, issued under an indenture of mortgage dated May 1, 1920, executed and delivered by the applicant to the New York Trust Company, as trustee. Said bonds are in definitive coupon form, having coupon due November 1, 1921, and all subsequent coupons attached, are in denomination of \$1,000 and are numbered as follows:

	Denomination.	Amount.
2 bonds, Nos. D-1069 to D-1070-----	\$500	\$1, 000
170 bonds, Nos. M-12314 to M-12483-----	1, 000	170, 000
Total-----		171, 000

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan, or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 31st day of October, 1921.

70 I. C. C.

FINANCE DOCKET No. 383.

IN THE MATTER OF THE APPLICATION OF THE CHICAGO, NEW YORK & BOSTON REFRIGERATOR COMPANY FOR A PARTIAL PAYMENT UNDER SECTION 209 OF THE TRANSPORTATION ACT, 1920.

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*Submitted September 26, 1921. Decided October 31, 1921.*

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The Chicago, New York & Boston Refrigerator Company held not to be subject to the guaranty provisions of section 209 of the transportation act, 1920. Application dismissed.

*William G. Wheeler* for claimant.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

The Chicago, New York & Boston Refrigerator Company, a corporation organized under the laws of the State of Maine, doing business under the trade names of New York Despatch Refrigerator Line and National Despatch Refrigerator Line, on May 10, 1921, applied for a partial payment of the amount which it claimed to be due from the United States as a guaranty under section 209 of the transportation act, 1920. The claimant prepared and filed data in the general form required by our orders of October 18, 1920, and January 5, 1921, and submitted briefs and oral argument in support of its application.

From June 1, 1918, to March 1, 1920, the claimant's property was under Federal control and was operated by the director general under a standard contract which fixed the claimant's annual compensation at \$72,855.60. On March 15, 1920, it filed a statement by which it accepted all the provisions of section 209. Having set forth facts in its application which, as it believes, disclose that its income for the six months of the guaranty period was less than the amount guaranteed to it by the United States, and having asserted that it is a carrier by railroad whose system of transportation was under Federal control at the time of the termination thereof, the claimant contends that we should determine the amount due it under the guaranty and certify such amount to the Secretary of the Treasury for payment.

The first question presented by the application is whether or not the status of this company under the law brings it within our jurisdiction and entitles it to any guaranty payment whatever.

The record contains complete information concerning the nature of the claimant's business, the services it performs for shippers, and its relations with railroads over whose lines its cars are transported. There is no dispute as to the facts. The claimant's capital stock is owned entirely by the Grand Trunk Railway Company. Its property consists mainly of 740 refrigerator cars, together with ice plants, icing stations, repair shops, and other miscellaneous possessions. It also leases 360 refrigerator cars. Pursuant to contracts which it has made with the Grand Trunk Railway Company, the Delaware, Lackannna & Western Railroad Company, the Lehigh Valley Railroad Company, and the Central Vermont Railway Company, its cars containing dairy products or other freight requiring refrigeration, when moving east of Chicago are routed exclusively over the lines of these companies, which pay to the claimant a mileage allowance, called "car hire," and a stipulated percentage of the revenues on such traffic, called "commission." At Chicago the claimant has its general headquarters, repair shops, ice plants, and some other facilities, and at this point about 50 per cent of the traffic handled in its cars originates. Its cars move over various lines of railway to points as far west of Chicago as the Missouri River, and its compensation on refrigerator traffic in that territory is limited to a mileage allowance paid by the western lines. Agents of the claimant solicit the freight that moves in its cars, advise shippers concerning their shipments and as to the proper markets for their commodities, give shipping instructions, route shipments, and, when necessary, supervise loading and icing. In Chicago the claimant rebuilds, repairs, and cleans its refrigerator cars and directs their distribution to western shipping points as the requirements of the traffic demand. On all traffic which originates in Chicago or which is there reconsigned, destined to points in the East, the claimant issues bills of lading which cover to destination, but at no other point does it issue any bills of lading. Acting as the agent of the railway companies with which it has contracts providing for percentage allowances of revenue, it vouches and settles shippers' claims for loss and damage which have been authorized by the railway companies, and is reimbursed for such disbursements by those companies.

The claimant does not own or control any motive power, roadbed, or track; does not file with us annual or monthly reports; does not publish any tariffs or participate in their publication; and does not collect freight charges for its own account. Shippers of refrigerator

traffic pay charges in accordance with the governing tariffs of the railway companies over whose lines the traffic moves. The cars are under the control of the railway companies while on their respective lines, subject only to the requirement that they are not to be diverted from established routes or loaded eastbound with any local freight of the railway companies, or loaded at all with any freight which will tend to injure such cars or render them unfit for the carriage of refrigerator freight. It is conceded that the claimant is not a railroad company. Its representatives assert, however, that this company is in effect a department of the Grand Trunk Railway Company, taking charge for it of its refrigerator-car service, and that the enterprise in which it is engaged is a joint one, the car company and the railway company each furnishing a portion of the service and facilities necessary in order that merchandise may be transported.

The obligation of the United States in respect of guaranties to carriers which were taken under Federal control and our duty in the matter of ascertaining and certifying the amounts to be paid to such carriers are defined in section 209 of the transportation act, the first paragraph of which is as follows:

The term "carrier" means (1) a carrier by railroad or partly by railroad and partly by water, whose railroad or system of transportation is under Federal control at the time Federal control terminates, or which has heretofore engaged as a common carrier in general transportation and competed for traffic, or connected, with a railroad at any time under Federal control; and (2) a sleeping car company whose system of transportation is under Federal control at the time Federal control terminates; but does not include a street or interurban electric railway not under Federal control at the time Federal control terminates, which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both.

We deem it unnecessary in this connection to determine whether or not the Chicago, New York & Boston Refrigerator Company is a common carrier under general definitions of that term. However, we have heretofore regarded this claimant, and others engaged in the same or similar enterprises, as private-car lines and not as common carriers. *In the Matter of Private Cars*, 50 I. C. C. 652, *Perishable Freight Investigation*, 56 I. C. C. 449. No sufficient reason has been advanced for any modification of our conclusions as stated in the reports of those investigations. The Supreme Court, moreover, in a suit arising out of our investigation in the *Private Car case*, held that one of the parties thereto, the Armour Car Lines, was not a common carrier within the meaning of section 1 of the act to regulate commerce, and was not directly subject to our jurisdiction. *Ellis v. Interstate Commerce Commission*, 237 U. S. 434. We are

here more particularly concerned with the meaning of the statute above quoted. It contains a definition of the term "carrier." It indicates to our mind that the intention of Congress was to be as specific as possible in designating those carriers for whose benefit the guaranty provisions should operate. The fact that the definition was made precludes the view that the section was intended to apply generally to all agencies of transportation over which in the time of war Federal control was assumed; and the fact that it limits the meaning of "carrier" to (1) "a carrier by railroad or partly by railroad and partly by water," and (2) "a sleeping car company," deprives us of authority to certify a payment under the guaranty to any claimant which can not bring itself clearly within one of these terms.

The claimant's representatives assert that it is a carrier by railroad within the meaning of section 209, because it is engaged in the carriage of freight over or by means of railroads and because it is to all intents and purposes a part of the Grand Trunk Railway, engaged in handling a particular kind of that railroad's traffic; they advance the view that the term "carrier" in section 209 of the transportation act is as broad in its meaning as the same term in section 1 of the Federal control act; and they contend, therefore, that this section is to be so construed as to entitle every carrier which was under Federal control on February 29, 1920, to a guaranty payment. We are unable to agree with the claimant, either in its view of its own status or in its interpretation of the statute. The claimant is an equipment-owning company which, however, does not own or operate motive power, roadbed, or tracks, does not collect from shippers charges for its services, does not control its cars while in trains, and which leases its cars to railroads to be used in handling a particular kind of traffic, depending for its revenues upon car hire and commissions paid by the rail lines. Obviously, it lacks many essential characteristics of a carrier by railroad. Recently in deciding the case of *Wells Fargo & Co. v. Taylor*, 254 U. S., 175, arising under the Federal Employers' Liability Act, the Supreme Court said:

In our opinion the words "common carrier by railroad," as used in the act, mean one who operates a railroad as a means of carrying for the public—that is to say, a railroad company acting as a common carrier. This view not only is in accord with the ordinary acceptation of the words, but is enforced by the mention of cars, engines, track, roadbed and other property pertaining to a going railroad; \* \* \* and by the fact that similar words in the original Interstate Commerce Act had been construed as including carriers operating railroads but not express companies doing business as here shown. 1 I. C. C., 349; *United States v. Moreman*, 42 Fed. Rep., 448; *Southern Indiana Express Co. v. United States Express Co.*, 88 Fed. Rep., 659, 662; s. c. 92 Fed. Rep., 1022. And see *American Express Co. v. United States*, 212 U. S., 522, 531, 534.

We find that the Chicago, New York & Boston Refrigerator Company is not a carrier by railroad within the meaning of section 209 of the transportation act, 1920, and is not subject to the guaranty provisions of that section. Its application for a partial payment thereunder must, therefore, be dismissed. An order will be entered accordingly.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the application of the Chicago, New York & Boston Refrigerator Company herein be, and the same is hereby, dismissed.

70 I. C. C.



FINANCIAL DOCKET No. 1565.

IN THE MATTER OF THE APPLICATION OF THE COW-  
LITZ, CHEHALIS & CASCADE RAILWAY COMPANY FOR  
A LOAN FROM THE UNITED STATES TO AID IN MEET-  
ING MATURING INDEBTEDNESS AND IN PROVIDING  
EQUIPMENT AND OTHER ADDITIONS AND BETTER-  
MENTS.

*Submitted August 27, 1921. Decided October 31, 1921.*

Application granted in part and loan of \$45,000 approved.

*W. E. Brown* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Cowlitz, Chehalis & Cascade Railway Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on August 27, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness, and in providing itself with equipment and other additions and betterments.

In the application the applicant sets forth:

- 1. That the amount of the loan desired is \$45,500.
- 2. That the term for which the loan is desired is five years.
- 3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
Maturing indebtedness.....	\$31,000	\$8,500	\$22,500
New equipment.....	10,000	5,000	5,000
Additions and betterments to way and structures.....	27,090	9,090	18,000
Total.....	68,090	22,590	45,500

- 4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.
- 5. That the security offered is applicant's first-mortgage bonds in the principal amount of \$60,000.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to restore its credit, to improve its motive-power equipment, and to promote the movement of freight-train cars, thus enabling it properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation we find that the making in part of the proposed loan by the United States, for the purposes and in the amounts hereinafter set forth:

Purposes.	Estimated cost or principal amount.	Financed by applicant.	Loan from United States.
<b>Maturities:</b>			
Note payable to Vaness & Baldwin, Winlock, Wash., dated Nov. 30, 1920, due Nov. 30, 1921.....	\$13, 500	.....	.....
Note payable to Northern Pacific Railway Co., Tacoma, Wash., dated Jan. 26, 1921, due Aug. 26, 1921.....	2, 500	.....	.....
Note payable to Vaness & Baldwin, Winlock, Wash., dated Nov. 30, 1920, due Nov. 30, 1921.....	13, 500	.....	.....
Note payable to Northern Pacific Railway Co., Tacoma, Wash., dated Jan. 26, 1921, due Aug. 26, 1921.....	2, 500	.....	.....
Notes payable to Pacific Car & Foundry Co., Seattle, Wash.: 1. Dated June 17, 1919, due Aug. 16, 1919..... \$8,000 2. Dated Sept. 18, 1919, due Nov. 17, 1919..... 3,000 3. Dated Sept. 18, 1919, due Nov. 17, 1919..... 8,000 Total notes, \$19,000, less payments, \$6,800.....	12, 200	.....	.....
Due on account of interest on notes payable to Pacific Car & Foundry Co.....	1, 975. 03	.....	.....
Total maturities.....	30, 175. 03	\$8, 175. 03	\$22, 000. 00
<b>Equipment:</b>			
One new combination passenger, express, and mail gasoline-motor car.....	10, 000	5, 000	5, 000
<b>Additions and betterments to way and structures:</b>			
Ballast for 8.5 track miles; 2,000 yards of gravel per mile, at \$1.25 per yard.....	21, 500	6, 500	15, 000
Permanent structures to replace four temporary bridges: Bridge No. 12..... \$1, 840 Bridge No. 14..... 1, 110 Bridge No. 15..... 1, 700 Bridge No. 17..... 940	5, 590	2, 590	3, 000
Total additions and betterments.....	27, 090	9, 090	13, 000
Grand total.....	67, 265. 03	22, 265. 03	45, 000

is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection

to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 117 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$45,000 by the United States to the Cowlitz, Chehalis & Cascade Railway Company, a carrier by railroad subject to the interstate commerce act hereinafter referred to as the applicant, for the purpose of aiding the applicant in meeting its maturing indebtedness, and in providing itself with equipment and other additions and betterments, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$45,000.

4. That the time from the making thereof within which the loan is to be repaid in full is five years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$60,000, principal amount, of applicant's first-mortgage 10-year 5 per cent gold bonds, due 1927, issued under an indenture of mortgage dated January 1, 1917, executed and delivered by the applicant to the Seattle Nation Bank, as trustee. Said bonds are in definitive coupon form having coupon due January 1, 1922, and all subsequent coupons attached, are in denominations of \$1,000, and are numbered 2001 to 2019, 2033 to 2036, 2147 to 2154, 2171 to 2188, 2155 to 2164, each inclusive, and 2233.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(e) The applicant has agreed in an instrument in writing, dated the 14th day of November, 1921, filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 7 per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about July 1, 1922, and January 1, 1923, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan for additions and betterments, together with the entire amount to be financed by the applicant for additions and betterments, shall have been expended or definitely obligated for said purposes, or the entire loan for additions and betterments shall be repaid to the United States on or before January 1, 1923. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States; and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 22d day of November, 1921.

70 I. C. C.

## FINANCE DOCKET No. 8.

## IN THE MATTER OF THE APPLICATION OF THE CENTRAL VERMONT RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING-MORTGAGE BONDS.

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*Submitted October 12, 1921. Decided November 2, 1921.*

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Authority granted to pledge not exceeding \$24,000 of refunding-mortgage 5 per cent gold bonds with the Secretary of the Treasury as part collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended. Previous reports, 65 I. C. C., 126, 473.

*E. C. Smith*, for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Central Vermont Railway Company, by supplemental application filed in this proceeding on October 12, 1921, has applied for authority under section 20a of the interstate commerce act to pledge not exceeding \$24,000 of refunding-mortgage 5 per cent gold bonds, now held in its treasury, with the Secretary of the Treasury as part collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended.

On October 31, 1921, by our certificate No. 115 in *Loan to Central Vermont Ry.*, 70 I. C. C., 572, we approved a loan from the United States to the applicant under section 210 of the transportation act, 1920, as amended, in the amount of \$128,000, to enable the applicant to pay off and discharge a like principal amount of its outstanding 4 per cent first-mortgage gold bonds, which matured May 1, 1920. In such certificate it was required that the applicant's refunding-mortgage 5 per cent gold bonds in the aggregate amount of \$171,000 be deposited with the Secretary of the Treasury as collateral security therefor.

By our order herein dated August 25, 1920, 65 I. C. C., 126, we authorized the applicant to issue \$12,000,000 of such bonds for the sole purpose of retiring \$11,958,000, of the applicant's 4 per cent first-mortgage gold bonds which matured May 1, 1920, and which were then outstanding, and also to retire the remaining \$42,000 of said 4 per cent first-mortgage gold bonds, which were then in the treasury of the applicant. Pursuant to that order the applicant retired all the

bonds except a number which the holders have either refused or neglected to exchange, and to pay a portion of which the proceeds of the loan above referred to will be used. The applicant therefore now holds in its treasury \$42,000 of refunding-mortgage 5 per cent gold bonds exchanged at par for the old bonds then held in its treasury. It is proposed to pledge \$24,000 of these bonds as part collateral security for the loan from the United States.

The remaining \$147,000 of bonds required to be pledged as such security will be derived from those now held by the applicant in its treasury pursuant to our order dated September 9, 1921, in *Bonds of Central Vermont Ry.*, 70 I. C. C., 443.

We find that the proposed issue of not exceeding \$24,000 of refunding-mortgage 5 per cent gold bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Upon further investigation of the matters and things involved in this proceeding, and upon filing by the applicant of a supplemental application herein, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Central Vermont Railway Company be, and it is hereby, authorized to issue not exceeding \$24,000, principal amount, of its refunding-mortgage gold bonds (now held in the treasury), under and pursuant to, and to be secured by, the refunding gold-bond mortgage, dated May 1, 1920, made by the applicant to the New York Trust Company; said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on May 1 and November 1 in each year, and to mature May 1, 1930; said bonds to be pledged with the Secretary of the Treasury as part collateral security for a loan of \$128,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended, as specified in this commission's certificate No. 115, dated October 31, 1921, in Finance Docket No. 1578.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.



*It is further ordered,* That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the pledge of any of said bonds as herein authorized, and (2) the release of said bonds from pledge; such reports to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or the interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1017.

IN THE MATTER OF THE APPLICATION OF THE SEABOARD AIR LINE RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS AND IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

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*Approved November 2, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

*Amendment to Certificate No. 21 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby further amends its certificate No. 21 of September 15, 1920, as amended and supplemented,<sup>1</sup> to the Secretary of the Treasury, approving the making of a loan of \$6,073,400 by the United States to the Seaboard Air Line Railway Company, hereinafter referred to as the applicant, by changing section (3) of paragraph 5 (e) to read as follows:

(3) The applicant shall furnish the commission on January 1 and July 1, 1921, detailed certificates under oath of its chief engineer, of additions and betterments made with or in connection with the loan for substantially the following purposes and amounts:

Ballast, decking, and strengthening and filling trestles-----	\$258, 750
Dredging-----	27, 000
Cinder-pit and fuel facilities-----	10, 000
Passing and yard tracks-----	27, 000
Minor betterments to existing equipment-----	60, 000
Station facilities-----	23, 900
Industrial tracks-----	92, 101
Ballasting roadbed, rail renewals, shop machinery and facilities, additional work equipment, and miscellaneous items-----	251, 249
Total-----	750, 000

Done in Washington, D. C., this 3d day of November, 1921.

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<sup>1</sup> 65 I. C. C., 163; 67 I. C. C., 54, 686.

## FINANCE DOCKET No. 1146.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO &amp; EASTERN ILLINOIS RAILWAY COMPANY FOR AUTHORITY TO ISSUE SECURITIES, TO ASSUME OBLIGATIONS, AND TO PLEDGE BONDS.

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*Submitted October 25, 1921. Decided November 2, 1921.*

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Order issued in this proceeding under date of February 3, 1921, modified by changing the amounts of securities authorized to be issued, and of obligations or liabilities authorized to be assumed. Previous report, 67 I. C. C., 61.

*W. H. Lyford* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

By a supplemental application duly filed in this proceeding on October 20, 1921, the Chicago & Eastern Illinois Railway Company has requested certain modifications of our order of February 3, 1921, in *Securities of Chicago & Eastern Illinois Ry.*, 67 I. C. C., 61. The applicant states that under the plan and agreement of reorganization it will not be necessary to issue the full amount of prior-lien bonds, preferred capital stock, and common capital stock authorized to be issued by said order; also that, as certain equipment notes have been paid, the amount of such notes to be assumed will be correspondingly reduced; but that in order to carry out the plan it will be necessary to issue a larger amount of general-mortgage bonds than was authorized in said order. The modifications requested by the applicant are the following changes in the amounts of securities authorized to be issued and the amounts of equipment notes in respect of which obligations are authorized to be assumed, by the order above mentioned, viz:

Issue to be authorized of—

\$5,262,500 instead of \$5,356,000 prior-lien bonds.

\$35,500,000 instead of \$32,156,000 general-mortgage bonds.

\$22,051,100 instead of \$24,030,150 preferred capital stock.

\$24,135,100 instead of \$25,500,000 common capital stock.

Obligations or liabilities to be assumed in respect of—

\$1,477,000 instead of \$1,640,000 of Chicago & Eastern Illinois equipment notes, series H.

\$691,500 instead of \$741,000 of United States equipment notes.

These changes involve a reduction in the amount of securities to be issued and assumed from \$92,392,150 to \$92,086,300.

Of the prior-lien bonds, \$4,281,250 are to be pledged with the Director General of Railroads as collateral security for his loan to the receiver of \$3,425,000, and \$981,250 are to be pledged with the Secretary of the Treasury as security for a loan of \$785,000 under section 210 of the transportation act.

In compliance with the requirements of the order of February 3, 1921, the applicant has submitted for approval forms of its proposed prior-lien mortgage and its proposed general mortgage; also temporary and definitive forms of prior-lien mortgage and general-mortgage bonds, together with forms of temporary preferred-stock certificates and temporary common-stock certificates.

We find that the issue of securities and assumption of obligations or liabilities as proposed by the applicant in the supplemental application (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate supplemental order will be entered.

## SECOND SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in the supplemental application filed in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which supplemental report is hereby referred to and made a part hereof:

*It is ordered*, That the order of this commission dated February 3, 1921, as amended June 16, 1921, in the above-entitled proceeding be, and it is hereby, modified so as to authorize the Chicago & Eastern Illinois Railway Company (1) to issue in temporary and/or definitive form \$5,262,500, principal amount, of prior-lien bonds instead of \$5,356,000 of such bonds; \$4,281,300 of said bonds to be pledged with the Director General of Railroads as collateral security for a loan as set forth in the application and supplemental application, and \$981,200 of said bonds to be pledged with the Secretary of the Treasury as security for a loan of \$785,000 under section 210 of the transportation act, 1920, as amended, if such a loan shall be made; (2) to issue in temporary and/or definitive form \$35,500,000, principal amount, of general-mortgage bonds instead of \$32,156,000 of such bonds; (3) to issue \$22,051,100 of 6 per cent cumulative preferred

capital stock, consisting of 220,511 shares of the par value of \$100, to be represented by certificates in temporary and/or definitive form instead of \$24,030,150 of such stock; (4) to issue \$24,135,100 of common capital stock, consisting of 241,351 shares of the par value of \$100, to be represented by certificates in temporary and/or definitive form instead of \$25,500,000 of such stock; (5) to assume obligations or liabilities in respect of \$1,477,000 of Chicago & Eastern Illinois equipment notes, series H, 5½s, instead of \$1,640,000 of such notes; and (6) to assume obligations or liabilities in respect of equipment notes to the director general amounting to \$691,600 instead of \$741,000 of such notes.

*It is further ordered*, That the form of the proposed prior-lien mortgage submitted with the supplemental application and the forms of the bonds, temporary and definitive, proposed to be issued thereunder be, and they are hereby, approved.

*It is further ordered*, That the form of the proposed general mortgage submitted with the supplemental application and the forms of the bonds, temporary and definitive, proposed to be issued thereunder be, and they are hereby, approved.

*It is further ordered*, That the proposed temporary forms of certificates for the preferred capital stock and for the common capital stock submitted with the supplemental application be, and they are hereby, approved.

*It is further ordered*, That none of the securities herein authorized to be issued shall, unless and until otherwise ordered by this commission, be sold, pledged, repledged, or otherwise disposed of by the applicant, except as authorized by the order of this commission dated February 3, 1921, as modified by this order.

*It is further ordered*, That the applicant shall not, unless and until otherwise ordered by this commission, assume any obligations or liabilities in respect of said equipment notes, except as authorized by said order of February 3, 1921, as modified by this order.

*It is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of the securities mentioned herein, or interest or dividends thereon.

*And it is further ordered*, That except as herein modified, said order of February 3, 1921, as amended June 16, 1921, shall remain in full force and effect.

## FINANCE DOCKET No. 1557.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL VERMONT RAILWAY COMPANY FOR AUTHORITY TO PROCURE AUTHENTICATION AND DELIVERY BY THE TRUSTEE OF CERTAIN BONDS AND TO SELL OR PLEDGE SAME.

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*Submitted October 12, 1921. Decided November 2, 1921.*

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Authority granted to pledge not exceeding \$147,000 of refunding-mortgage 5 per cent gold bonds with the Secretary of the Treasury as part collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended. Previous report, 70 I. C. C., 443.

*E. C. Smith* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Central Vermont Railway Company, by supplemental application filed in this proceeding on October 12, 1921, has applied for authority under section 20a of the interstate commerce act to pledge not exceeding \$147,000 of refunding-mortgage 5 per cent gold bonds, now held in its treasury, with the Secretary of the Treasury as part collateral security for a loan from the United States under section 210 of the transportation act, 1920, as amended.

On October 31, 1921, by our certificate No. 115, in *Loan to Central Vermont Ry.*, 70 I. C. C., 572, we approved a loan from the United States to the applicant under section 210 of the transportation act, 1920, as amended, in the amount of \$128,000, to enable the applicant to pay off and discharge a like principal amount of its outstanding 4 per cent first-mortgage gold bonds, which matured May 1, 1920. In such certificate it was required that the applicant's refunding-mortgage 5 per cent gold bonds in the aggregate amount of \$171,000 be deposited with the Secretary of the Treasury as collateral security therefor.

By our order herein dated September 9, 1921, 70 I. C. C., 443, we authorized the applicant to procure authentication by the trustee and delivery to the applicant's treasurer of \$147,000 of refunding-mortgage 5 per cent gold bonds. The applicant now holds these bonds in its treasury available to be pledged as part security for the loan from the United States.

The remaining \$24,000 of bonds necessary to be pledged as such security are also held by the applicant in its treasury, having been

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issued pursuant to our order dated August 25, 1920, in *Bond Issue of Central Vermont Ry.*, 65 I. C. C., 126. The pledge of such \$24,000 of bonds will be authorized by our supplemental order in that docket.

We find that the proposed issue of not exceeding \$147,000 of refunding-mortgage 5 per cent gold bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Upon further investigation of the matters and things involved in this proceeding, and upon filing by the applicant of a supplemental application herein, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Central Vermont Railway Company be, and it is hereby, authorized to issue not exceeding \$147,000, principal amount, of its refunding-mortgage gold bonds (now held in its treasury) under and pursuant to, and to be secured by, the refunding gold-bond mortgage, dated May 1, 1920, made by the applicant to the New York Trust Company; said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on May 1 and November 1 in each year, and to mature May 1, 1930; said bonds to be pledged with the Secretary of the Treasury as part collateral security for a loan of \$128,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended, as specified in this commission's certificate No. 115, dated October 31, 1921, in Finance Docket No. 1578.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the pledge of any of said bonds as herein authorized, and (2) the release of said bonds from pledge; such reports to be signed and verified by an executive officer having knowledge of the matters contained therein.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.



## FINANCE DOCKET No. 1388.

**IN THE MATTER OF THE APPLICATION FOR APPROVAL  
OF ACQUISITION OF CONTROL OF THE CHICAGO,  
TERRE HAUTE & SOUTHEASTERN RAILWAY COM-  
PANY BY THE CHICAGO, MILWAUKEE & ST. PAUL  
RAILWAY COMPANY AND FOR CONSEQUENT PUR-  
POSES.**

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*Submitted October 14, 1921. Decided November 4, 1921.*

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1. Authority granted to the Chicago, Terre Haute & Southeastern Railway Company to issue \$310,571, principal amount, of 5 per cent first and refunding mortgage gold bonds; said bonds to be delivered to the Chicago, Milwaukee & St. Paul Railway Company to reimburse it for the payment of \$217,400, principal amount, of certain other obligations of the Chicago, Terre Haute & Southeastern Railway Company in accordance with the terms of an indenture of lease made by and between the applicants.
2. Authority granted to the Chicago, Milwaukee & St. Paul Railway Company to assume, as lessee, the obligation or liability of the Chicago, Terre Haute & Southeastern Railway Company in respect of the payment of the principal and interest of its said \$310,571, principal amount, of first and refunding mortgage gold bonds, in accordance with the terms of said lease.

*M. J. Carpenter* for Chicago, Terre Haute & Southeastern Railway Company.

*H. E. Byram* for Chicago, Milwaukee & St. Paul Railway Company.

**SUPPLEMENTAL REPORT OF THE COMMISSION.<sup>1</sup>**

**DIVISION 4, COMMISSIONERS MEYER, DANIELS, AND POTTER.**

**BY DIVISION 4:**

The Chicago, Terre Haute & Southeastern Railway Company (hereinafter called the Southeastern), a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, and the Chicago, Milwaukee & St. Paul Railway Company (hereinafter called the St. Paul), a common carrier by railroad engaged in interstate commerce, by a joint supplemental application have duly applied for authority under section 20a of the interstate commerce act (1) for the Southeastern to issue \$310,571 of 5 per cent first and refunding mortgage gold bonds, said bonds to be delivered to the St. Paul to reimburse it for the payment of \$217,400 of certain other obligations of the Southeastern in accordance with the terms of a lease made by and between the appli-

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<sup>1</sup> Previous report, 70 I. C. C., 20.

cants; and (2) for the St. Paul to assume, as lessee, in accordance with the terms of the lease, the obligation or liability of the Southeastern in respect of the payment of the principal and interest of the \$310,571 of the Southeastern's first and refunding mortgage bonds.

By our order of June 28, 1921, in this proceeding, 70 I. C. C., 20, we approved and authorized, among other things, the acquisition by the St. Paul of control of the Southeastern by the purchase of capital stock and by a 999-year lease. We deferred consideration of that part of the application in which the Southeastern asked for authority to deliver to the St. Paul \$2,090,000 of the former's 5 per cent first and refunding mortgage gold bonds, of which \$1,485,000 were at that time pledged as collateral security for certain then outstanding promissory notes of the Southeastern and the remaining \$605,000 held by the Southeastern in its treasury, and the St. Paul sought authority to assume as lessee, and as part consideration for the lease, the obligation or liability of the Southeastern in respect of those bonds. Consideration was deferred for the reason that no present delivery of bonds or assumption of obligation in respect thereto was to be undertaken at that time and because the price at which the bonds were to be taken by the St. Paul was uncertain.

Both applicants now represent that the St. Paul is entitled, in accordance with the provisions of the lease, to have delivered to it bonds of the Southeastern to reimburse it for the payment of certain obligations of the Southeastern as follows:

5 per cent equipment gold bonds dated June 1, 1913, matured July 1, 1921.....	\$10, 000
5 per cent equipment gold bonds matured October 1, 1921.....	40, 000
One-fifth of a total amount of \$837,000 of promissory notes, representing an installment of principal which became due in accordance with the terms of the lease above referred to, on October 1, 1921.....	167, 400
Total .....	217, 400

According to the terms of the lease, the price at which the bonds are to be delivered to the St. Paul to reimburse it for payment of the above obligations is to be fixed by both applicants or, failing an agreement, by an appointed arbiter. Both applicants state that they have agreed upon a price of 70 per cent of par for such bonds. At such price the St. Paul is entitled to receive \$310,571, principal amount, of bonds. All of these bonds are held by the Southeastern in its treasury, having been executed, prior to the effective date of section 20a of the interstate commerce act, under and pursuant to and secured by the first and refunding mortgage, dated December 1, 1910, made by the Southeastern to the Illinois Trust & Savings Bank and William H. Henkle, trustees. It appears that the bonds were authen-

ticated and delivered by the trustees to the Southeastern to reimburse it for money expended from its treasury (other than the proceeds of first and refunding bonds) and not otherwise funded, for additions, betterments, and improvements on its railroad.

We find that the proposed issue and delivery of first and refunding mortgage bonds and the proposed assumption of obligation or liability in respect thereto (*a*) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in the supplemental application in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago, Terre Haute & Southeastern Railway Company be, and it is hereby, authorized to issue not to exceed \$310,571, principal amount, of its first and refunding mortgage gold bonds now held in its treasury, heretofore executed and duly authenticated and delivered to it under and pursuant to, and secured by, its first and refunding mortgage, dated December 1, 1910, made to the Illinois Trust & Savings Bank and William H. Henkle, trustees; said bonds bearing interest at the rate of 5 per cent per annum, payable semiannually on December 1 and June 1 in each year, and maturing December 1, 1960; said bonds to be delivered to the Chicago, Milwaukee & St. Paul Railway Company in reimbursement for its payment of \$217,400, principal amount, of certain other obligations of the Chicago, Terre Haute & Southeastern Railway Company.

*It is further ordered*, That the Chicago, Milwaukee & St. Paul Railway Company be, and it is hereby, authorized to assume, as lessee, the obligation and liability of the Chicago, Terre Haute & Southeastern Railway Company in respect of the payment of the principal and interest of said \$310,571, principal amount, of first and refunding mortgage gold bonds.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the Chicago, Terre Haute & Southeastern Railway Company unless and until so ordered by this commission.

*It is further ordered,* That within 10 days after the delivery of said first and refunding mortgage gold bonds, as herein authorized, the Chicago, Terre Haute & Southeastern Railway Company shall report to this commission all pertinent facts relating thereto; such report to be signed and verified by an executive officer having knowledge of the facts.

*It is further ordered,* That, within 10 days after the same shall have been consummated, the Chicago, Milwaukee & St. Paul Railway Company shall report to this commission all pertinent facts relating to the assumption of obligation and liability in respect of the said bonds, as herein authorized; such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of said bonds, or interest thereon, or as to any assumption of obligation or liability by any one in respect thereto.

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## FINANCE DOCKET No. 1584.

## IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL RAILROAD COMPANY FOR AUTHORITY TO ISSUE AND TO PLEDGE REFUNDING AND IMPROVEMENT MORTGAGE BONDS.

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*Submitted October 27, 1921. Decided November 5, 1921.*

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Authority granted to issue \$19,500,000 of 6 per cent refunding and improvement mortgage bonds, series B, and to pledge them with the Director General of Railroads as security for a demand note for a like amount.

*A. H. Harris* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The New York Central Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to issue not exceeding \$19,500,000 of its refunding and improvement mortgage bonds, series B; and (2) to pledge them with the Director General of Railroads, or as he may direct for his account, as security for the payment of the applicant's 6 per cent demand note for a like amount, dated August 4, 1921, and payable to the order of the Director General of Railroads. An objection to our jurisdiction was filed by the Public Utilities Commission of Michigan, in which State, among others, the applicant operates. We are of the opinion that we have jurisdiction. No other objection to the granting of the application has been offered.

The note was given to the Director General of Railroads in payment of the applicant's indebtedness to the United States for additions and betterments made to its property and leased lines during Federal control. These additions and betterments have not been heretofore capitalized. The items and the cost thereof are set forth in two schedules filed with the application, schedule A showing expenditures to the amount of \$19,500,000 and schedule B showing additional expenditures to the amount of \$525,000. In explanation of the filing of the two schedules, the applicant states that the proposed bonds are to be issued in respect of the expenditures in schedule A in so far as said expenditures are found to be chargeable to capital

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account, but, inasmuch as the verification of said charges has not in all cases been finally completed, to the extent that the expenditures in schedule A found to be chargeable to capital account may fall below \$19,500,000, the applicant proposes to use as a basis for the bond issue an amount of expenditures from schedule B found to be chargeable to capital account sufficient to make up the necessary \$19,500,000 of capital expenditures.

The bonds are to be issued under and secured by the refunding and improvement mortgage dated October 1, 1913, made by the applicant's predecessor, the New York Central & Hudson River Railroad Company, to the Guaranty Trust Company of New York, and assumed by the applicant by a supplemental indenture dated June 15, 1915. The mortgage and supplemental indenture authorize the issue of bonds in an aggregate principal amount not exceeding three times the applicant's outstanding capital stock, which limit will not be exceeded by the proposed issue of bonds, and under section 5 of article 4, bonds may be issued for certain purposes including additions and betterments on owned or leased lines of railroad and for paying or refunding any indebtedness incurred for such purposes. The bonds will bear interest at the rate of 6 per cent per annum, payable semiannually, and mature October 1, 2013.

We find that the proposed issue and pledge of refunding and improvement mortgage bonds, series B, by the applicant are (a) for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the New York Central Railroad Company be, and it is hereby, authorized to issue not exceeding \$19,500,000, principal amount, of refunding and improvement mortgage bonds, series B, under and pursuant to, and to be secured by, the refunding and improvement mortgage dated October 1, 1913, made by the applicant's predecessor, the New York Central & Hudson River Railroad Company, to the Guaranty Trust Company of New York, and assumed by the applicant by a supplemental indenture dated June 15,

1915; said bonds to be dated April 1, 1920, to mature October 1, 2013, to be redeemable as an entirety on April 1 or October 1 in any year at 102½, and to bear interest at the rate of 6 per cent per annum, payable semiannually on April 1 and October 1 in each year; said bonds to be pledged with the Director General of Railroads, or as he may direct for his account, as collateral security for the applicant's promissory note dated August 4, 1921, for \$19,500,000, face amount, payable on demand to the order of the Director General of Railroads, with interest at the rate of 6 per cent per annum.

*It is further ordered,* That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by the commission.

*It is further ordered,* That the applicant shall within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the issue, pledge, and release from pledge of said bonds; said reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 919.

IN THE MATTER OF THE APPLICATION OF THE ANN ARBOR RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS.

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*Approved November 9, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
*Amendment to Certificate No. 60 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby further amends its certificate No. 60, of January 10, 1921,<sup>1</sup> for a loan of \$400,000 by the United States to the Ann Arbor Railroad Company, under section 210 of the transportation act, 1920, as amended, by adding the following to subparagraph (a) of paragraph 5 of said certificate No. 60 at the end thereof:

Pending the substitution of definitive bonds for bonds in temporary form, as hereinabove provided, the Secretary of the Treasury may permit the Empire Trust Company of New York, as trustee under the applicant's improvement and extension mortgage, to stamp upon the temporary bonds the notice or legend provided by the fifth section of the supplemental mortgage, dated as of November 1, 1920, but actually executed and delivered by the applicant on the 15th day of January, 1921.

Done at Washington, D. C., this 9th day of November, 1921.

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<sup>1</sup> 65 I. C. C., 525.

70 I. C. C.

## FINANCE DOCKET No. 919.

IN THE MATTER OF THE APPLICATION OF THE ANN ARBOR RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING ADDITIONS AND BETTERMENTS.

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*Approved November 9, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
*Amendment to Certificate No. 61 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby further amends its certificate No. 61, of January 18, 1921,<sup>1</sup> for a loan of \$250,000, by the United States to the Ann Arbor Railroad Company, under section 210 of the transportation act, 1920, as amended, by adding the following to subparagraph (a) of paragraph 5 of said certificate No. 61 at the end thereof:

Pending the substitution of definitive bonds for bonds in temporary form, as hereinabove provided, the Secretary of the Treasury may permit the Empire Trust Company of New York, as trustee under the applicant's improvement and extension mortgage, to stamp upon the temporary bonds the notice or legend provided by the fifth section of the supplemental mortgage, dated as of November 1, 1920, but actually executed and delivered by the applicant on the 15th day of January, 1921.

Done at Washington, D. C., this 9th day of November, 1921.

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<sup>1</sup> 65 I. C. C., 693.

## FINANCE DOCKET No. 1631.

## IN THE MATTER OF THE APPLICATION OF THE FORT WORTH &amp; DENVER CITY RAILWAY COMPANY FOR AUTHORITY TO EXTEND THE MATURITY OF BONDS.

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*Submitted October 31, 1921. Decided November 9, 1921.*

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Authority granted to extend the maturity date of \$8,176,000 of first-mortgage bonds from December 1, 1921, to December 1, 1961, with interest at the rate of 5½ per cent per annum.

*Joseph H. Barwise* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Fort Worth & Denver City Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to enter into agreements for the extension of the maturity date of its first-mortgage bonds, which are now outstanding in the hands of the public in the sum of \$8,176,000, from December 1, 1921, to December 1, 1961, with interest at the rate of 5½ per cent per annum for the period of extension. These bonds now bear interest at the rate of 6 per cent per annum, and are secured by the applicant's first mortgage to the Mercantile Trust Company of New York, dated December 29, 1881, and a supplemental indenture also to the Mercantile Trust Company, dated December 27, 1886, and an indenture dated November 20, 1912, to the Bankers Trust Company, into which the Mercantile Trust Company was merged on August 10, 1911. No objection to the granting of the application has been made.

The applicant represents that it is without available funds to pay these bonds at their maturity on December 1, 1921, and that the most economical plan is to extend them, with provisions for their redemption upon nine weeks' notice on or after January 1, 1935, with premiums in diminishing amounts from 5 to 1 per cent for each successive five-year period thereafter.

The applicant proposes to accomplish the extension by entering into an agreement under date of November 30, 1921, with the Bankers Trust Company, which will provide, among other things, that the "first mortgage dated December 29, 1881, with supplements thereto dated December 27, 1886, and November 20, 1912, respectively, shall

in all respects be continued in force and be a lien upon the property" of the Fort Worth & Denver City Railway Company therein conveyed, "the same as if said supplements thereto had provided for the payment of bonds in accordance with the provisions of this indenture." Each bond extended will be stamped to that effect, and an extension contract to be executed by the applicant under date of November 30, 1921, will be attached. Each extension agreement will have coupons attached covering semiannual interest for the period of the extension.

The applicant contemplates making an arrangement with a syndicate of bankers for the negotiation of the extension agreements with the present holders of the bonds. In connection with the extension of the bonds, a cash payment will be made to the holders thereof, the amount of which will be determined by market conditions at the time of the extension. The applicant represents that the cost to it of the extension will be not more than 5.9 per cent of the par amount of the bonds, excluding commission not to exceed 3 per cent thereof. The cost to the applicant on this basis will be approximately 6.306 per cent per annum.

We find that the proposed extension of the maturity date of bonds as aforesaid (a) is for a lawful object within the corporate purposes of the applicant, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Fort Worth & Denver City Railway Company be, and it is hereby, authorized to extend the maturity date of not exceeding \$8,176,000, aggregate principal amount, of its first-mortgage bonds now outstanding, from December 1, 1921, to December 1, 1961, with interest at the rate of 5½ per cent per annum for the period of extension; said extension to be accomplished by the execution of an agreement between the applicant and the Bankers Trust Company (successor trustee under the mortgage and supplements securing said bonds), and by stamping each bond with an indorsement to that effect, and attaching to each bond an extension

contract to be executed by the applicant under date of November 30, 1921, to which shall be attached coupons covering the semiannual interest on the bonds so extended at the rate of  $5\frac{1}{2}$  per cent per annum, as set forth in the application: *Provided, however,* That the total cost to the applicant in connection with the extension of the maturity date of said bonds shall not exceed 6.306 per cent per annum of the principal amount of bonds extended, including in such cost interest, cash payments to the holders of bonds extended, attorneys' fees, commission, and all other expenses in connection therewith.

*It is further ordered,* That, except as herein authorized, said bonds shall not be extended or reissued by sale, pledge, repledge, or otherwise by the applicant, unless and until so authorized by this commission.

*It is further ordered,* That the applicant shall, for the period ending December 31, 1921, and for each period of six months thereafter, until all of said bonds have been extended as herein authorized, within 30 days after the close of such period, report to this commission all pertinent facts relating to such extension; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

**FINANCE DOCKET No. 1524.****IN THE MATTER OF THE APPLICATION OF THE WHEELING & LAKE ERIE RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING-MORTGAGE BONDS.**

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*Approved November 10, 1921.*

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**DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.**

**SUPPLEMENTAL ORDER.**

Upon consideration of the order issued in the above-entitled proceeding, dated on the 10th day of August, A. D. 1921,<sup>1</sup> and upon request by the applicant for the amendment thereof:

*It is ordered*, That said order be, and it is hereby, amended by changing the second paragraph thereof to read as follows:

*It is ordered*, That the Wheeling & Lake Erie Railway Company be, and it is hereby, authorized to issue not exceeding \$451,000, aggregate principal amount, of its refunding-mortgage bonds, series C, under and pursuant to, and to be secured by, the refunding mortgage dated September 1, 1916, made by the applicant to the Central Trust Company of New York, to bear interest at the rate of 6 per cent per annum, payable semiannually on March 1 and September 1 in each year, and to mature September 1, 1966; said bonds to be pledged with the Secretary of the Treasury as part security for an installment of \$260,000 of a loan to the applicant from the United States under section 210 of the transportation act, 1920, as amended, in the aggregate amount of \$1,460,000, as specified in this commission's certificate No. 24, dated October 12, 1920, in Finance Docket No. 1038.<sup>2</sup>

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<sup>1</sup> 70 I. C. C., 333.

<sup>2</sup> 65 I. C. C., 278.

FINANCE DOCKET No. 1562.

IN THE MATTER OF THE APPLICATION OF THE LIVE  
OAK, PERRY & GULF RAILROAD COMPANY FOR A CER-  
TIFICATE OF PUBLIC CONVENIENCE AND NECES-  
SITY.

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*Submitted November 9, 1921. Decided November 15, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in Taylor  
County, Fla.

*John H. Powell* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Live Oak, Perry & Gulf Railroad Company, a carrier by rail-  
road subject to the interstate commerce act, filed an application on  
August 26, 1921, for a certificate that the present and future public  
convenience and necessity permit the abandonment of a branch of  
its line of railroad located in the county of Taylor, Fla. The Gov-  
ernor of Florida has filed with us a letter to the effect that the appli-  
cation has merit and that the State will enter no objection to the  
granting of the certificate requested.

The branch line in question was completed in 1914. It extends in  
a southwesterly direction from the 62-mile post on the main line  
of the applicant to a station known as Loughridge, Fla., a distance  
of 2 miles. Its investment cost was \$2,431.50. Both the right of way  
and the crossties were donated by the Standard Lumber Company,  
engaged at that time in developing the timber in that district. The  
rails were leased from the Atlantic Coast Line Railroad Company  
and are still the property of that company.

A large sawmill was erected at Loughridge a few years ago and  
the extension was built by the applicant primarily to afford a rail  
outlet for the products of the mill. Two years ago the mill was  
destroyed by fire. Subsequently the site of the plant was used as a  
logging camp, but that has been abandoned, and now no industry of  
any kind is conducted at Loughridge.

Freight traffic over the line in question consisted principally of  
lumber, lumber products, live stock, and miscellaneous supplies for  
the lumber company. The passenger traffic was negligible, as the  
district traversed by the line is uninhabited. Since the abandonment



of Loughridge as a logging camp no passenger, freight, or express traffic of any kind has been handled by the line and its continued operation, it is urged by the applicant, would necessarily result in a loss.

No bonds or other evidences of indebtedness are resting, in whole or in part, against the line or upon the earnings thereof.

Upon the facts presented, we find that the present and future public convenience and necessity permit the abandonment of the branch line of railroad in question. A certificate to that effect will be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment, by the Live Oak, Perry & Gulf Railroad Company, of its branch line of railroad extending from its main line to Loughridge in the county of Taylor, Fla., described in the application and report aforesaid.

*It is ordered,* That the said Live Oak, Perry & Gulf Railroad Company be, and it is hereby, authorized to abandon said branch line of railroad.

*It is further ordered,* That the said Live Oak, Perry & Gulf Railroad Company, when filing schedules canceling tariffs applicable to said branch line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 980.

## IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

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*Submitted November 7, 1921. Decided November 16, 1921.*

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Upon supplemental application and consideration thereof, certificate of October 12, 1920, so amended as to provide that the time within which the applicant shall expend or definitely obligate the proceeds of the loan in respect to additions and betterments be extended to January 1, 1922. Previous report, 65 I. C. C., 247.

*H. Tatnall* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On October 12, 1920, we issued our report and certificate No. 34 to the Secretary of the Treasury, 65 I. C. C., 247, approving the making of a loan of \$719,000 by the United States to the Long Island Railroad Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to provide itself with equipment and other additions and betterments.

One of the conditions of the loan was that the proceeds thereof should be expended or definitely obligated for the purposes for which loaned on or before July 1, 1921, and that progress reports of such expenditures should be made to us January 1 and July 1, 1921.

On July 25, 1921, the applicant made application to us to extend the time within which the proceeds of the loan should be expended from July 1, 1921, to January 1, 1922. By reason of negotiations with the Secretary of the Treasury, in respect of this loan, the applicant was unable to receive the proceeds of the loan until February 8, 1921. No report, therefore, was necessary on January 1, 1921, and less than five months of the period remained after the receipt of the loan during which the amount thereof was to be expended or definitely obligated.

On July 26, 1921, we tentatively approved the application for extension, and the applicant was notified by letter that the time limit  
70 I. C. C.

fixed by the provisions of the aforementioned certificate No. 34 would be considered as extended from July 1, 1921, to January 1, 1922.

After investigation, we find that the required authority should be formally granted, and our certificate of October 12, 1920, will be amended accordingly.

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*Amendment to Certificate No. 34 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 34 of October 12, 1920, to the Secretary of the Treasury, approving the making of a loan of \$719,000 by the United States to the Long Island Railroad Company, by changing subparagraph 5(d) to read as follows:

(d) The applicant has agreed in an instrument in writing, dated the 27th day of September, 1920, supplemented the 28th day of November, 1921, and filed with the Interstate Commerce Commission, to the following conditions: (1) That the amount to be financed by it in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States Government shall not exceed  $7\frac{1}{2}$  per cent per annum, including in such cost discounts, attorneys' fees, and any and all other expenses in connection therewith; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about July 1, 1921, and January 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with this loan for said purposes. The loan for additions and betterments shall have been expended or definitely obligated for the purposes for which loaned, or shall be repaid to the United States, on or before January 1, 1922.

Done at Washington, D. C., this 1st day of December, 1921.

70 I. C. C.

FINANCE DOCKET No. 1054.

IN THE MATTER OF THE APPLICATION OF THE ALABAMA, TENNESSEE & NORTHERN RAILROAD CORPORATION FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS AND IN PROVIDING EQUIPMENT.

Submitted November 10, 1921. Decided November 16, 1921.

Application granted. Loan of \$399,000 for equipment approved. Previous report, 67 I. C. C., 4.

John T. Cochran for applicant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Alabama, Tennessee & Northern Railroad Corporation, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on January 24, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness and in providing itself with equipment, pursuant to which on February 2, 1921, we issued our report and certificate No. 69, 67 I. C. C., 4, to the Secretary of the Treasury approving a loan of \$90,000 to the applicant to enable it to meet its maturing indebtedness in a like principal amount.

On May 4, October 7, and November 7, 1921, the applicant amended the application in respect to the proposed loan for equipment.

In the application, as amended, the applicant sets forth:

- 1. That the amount of the loan desired is \$399,000.
- 2. That the term for which the loan is desired is 15 years, repayable serially in semiannual installments.
- 3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purchase of—	Estimated cost.	Financed by applicant.	Loan from United States.
2 new consolidated type 75-ton freight locomotives.....	\$55, 000	\$28, 000	\$27, 000
50 new standard steel-underframe 50-ton flat cars, at \$1,240 each.....	372, 000	.....	372, 000
250 new standard steel-underframe 50-ton gondola cars, at \$1,240 each.			
Total.....	427, 000	28, 000	399, 000

4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.

5. That the security offered for the loan consists of a first and only lien upon the car equipment, together with \$200,000, face amount, of applicant's prior-lien bonds.

6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to secure equipment needed to enable it properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

The applicant operates 186 miles of main-line railroad, from Calvert, Washington County, to Reform, Pickens County, in Alabama, together with a terminal railway and terminal facilities at Mobile. To serve the territory contiguous and tributary to its line, the applicant owns 247 freight-carrying cars, or an average of less than 1.5 cars per mile of road, whereas the average of such cars for the entire mileage of the country is 10 cars per mile. Because of the small number of cars owned by it, the applicant is not able to secure from its trunk-line connections in periods when business is good and traffic moves in heavy volume an adequate number of cars to serve the transportation demands made upon it.

After investigation, we find that the making of the proposed loan by the United States, for the purposes and in the amounts hereinabove set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 120, for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$399,000 by the United States to the Alabama, Tennessee & Northern Railroad Corporation, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in providing itself with equipment, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$399,000.

4. That the time from the making thereof within which the loan is to be repaid in full is 15 years from December 1, 1921.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be repaid in equal semiannual installments of \$13,750 in 1 to 10 years and of \$12,400 in 11 to 15 years, consecutively, from December 1, 1921.

(b) The loan shall be secured by the pledge of \$200,000 of applicant's prior-lien mortgage 30-year 6 per cent gold bonds, due 1948, issued under an indenture of mortgage dated October 15, 1918, executed and delivered by the applicant to the Metropolitan Trust Company of the City of New York and James F. McNamara, as trustees. Said bonds are in definitive coupon form, having coupon due January 1, 1922, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered as follows: 354 to 364, 473 to 562, 751 to 820, and 822 to 850, inclusive.

(c) The loan shall be further secured by the pledge of \$372,000, principal amount, of applicant's equipment-trust notes issued under and pursuant to an equipment-trust agreement dated November 16, 1921, executed and delivered by the applicant to the Coal & Iron National Bank of the City of New York, as trustee. Said notes are in temporary form, without coupons, are in denomination of \$12,400, and are numbered 1 to 30, inclusive.

(d) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(e) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(f) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for aforesaid purposes from other sources.

Done at Washington, D. C., this 8th day of December, 1921.

70 I. C. C.



FINANCE DOCKET No. 1601.

IN THE MATTER OF THE APPLICATION OF THE GAINESVILLE & NORTHWESTERN RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS.

Submitted September 24, 1921. Decided November 17, 1921.

Loan of \$75,000 for term of five years, to aid the applicant in meeting maturing short-term indebtedness, approved.

B. S. Barker for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Gainesville & Northwestern Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, on September 24, 1921, made application to us for a loan from the United States in accordance with section 210 of the transportation act, 1920, as amended, to aid the applicant in meeting its maturing indebtedness.

In the application, the applicant sets forth:

- 1. That the amount of the loan desired is \$75,000.
- 2. That the term for which the loan is desired is five years.
- 3. That the purposes of the loan and the uses to which it will be applied are as follows:

Purposes.	Estimated cost.	Financed by appli- cant.	Loan from United States.
Maturing indebtedness.			
Notes payable to Byrd-Mathews Investment Co., Sikeston, Mo.:			
Dated Nov. 3, 1914, due on demand.....	\$1,000.00	.....	.....
Dated Dec. 28, 1914, due on demand.....	1,400.00	.....	.....
Dated Jan. 22, 1916, due on demand.....	2,500.00	.....	.....
Dated Mar. 9, 1916, due on demand.....	1,000.00	.....	.....
Dated July 11, 1916, due on demand.....	2,000.00	.....	.....
Dated Feb. 6, 1917, due on demand.....	5,000.00	.....	.....
Dated June 1, 1917, due on demand.....	8,408.12	.....	.....
Dated Sept. 5, 1918, due on demand.....	4,300.00	.....	.....
Total.....	25,608.12	.....	.....
Notes payable to C. D. Mathews, jr., of Sikeston, Mo.:			
Dated Mar. 10, 1919, due on demand.....	5,000.00	.....	.....
Dated Sept. 20, 1920, due on demand.....	5,000.00	.....	.....
Dated Oct. 5, 1920, due on demand.....	12,000.00	.....	.....
Dated Nov. 29, 1920, due on demand.....	3,500.00	.....	.....
Dated Dec. 13, 1920, due on demand.....	3,500.00	.....	.....
Dated Dec. 31, 1920, due on demand.....	5,000.00	.....	.....
Dated Jan. 29, 1921, due on demand.....	2,500.00	.....	.....
Total.....	36,500.00	.....	.....

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<i>Maturing indebtedness—Continued.</i>			
Notes payable to Bank of Helena, Helena, Ga., dated Oct. 21, 1919; due Aug. 21, 1921.....	\$500. 00	.....	.....
Notes payable to Piedmont Corporation of New York City:			
Dated July 1, 1921, due Sept. 29, 1921.....	4, 000. 00	.....	.....
Dated July 29, 1921, due Oct. 27, 1921.....	4, 000. 00	.....	.....
Dated Aug. 4, 1921, due Nov. 2, 1921.....	4, 500. 00	.....	.....
Dated Sept. 1, 1921, due Nov. 30, 1921.....	2, 000. 00	.....	.....
Total.....	14, 500. 00	.....	.....
Note payable to First National Bank of Gainesville, Ga., dated Apr. 16, 1921, due July 16, 1921.....	14, 500. 00	.....	.....
Grand total.....	91, 608. 12	\$16, 608. 12	\$75, 000. 00

4. The present and prospective ability of the applicant to repay the loan and to meet its obligations in regard thereto.

5. That the security offered is \$75,000, principal amount of applicant's first-mortgage gold bonds, together with the unrestricted indorsement and guaranty of the Piedmont Corporation of the primary obligation evidencing the loan.

6. That the extent to which the public convenience and necessity will be served is that the loan will restore applicant's credit, thus enabling it properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

After investigation, we find that the making of the requested loan by the United States, for the purposes and in the amounts hereinbefore set forth is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

*Certificate No. 122, for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$75,000 by the United States to the Gainesville & Northwestern Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of aiding the applicant in meeting its maturing indebtedness, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$75,000.

4. That the time from the making thereof within which the loan is to be repaid in full in five years.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$75,000, principal amount, of applicant's first-mortgage five-year 6 per cent gold bonds, due 1927, issued under an indenture of mortgage dated January 3, 1922, executed and delivered by the applicant to the Investors Savings Company, of Atlanta, Ga., as trustee. Said bonds are in definitive form, without coupons, are in denomination of \$1,000, and are numbered 1 to 75, inclusive. The loan shall be further secured by the unrestricted indorsement and guaranty, as to both principal and interest, of the Piedmont Corporation. Said indorsement and guaranty may be in substantially the following form:

For value received, Piedmont Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware and having its principal office and place of business at New York, in the State of New York, hereby indorses and unconditionally guarantees to the holder hereof payment of the within (or foregoing) note in the full principal amount of \$75,000 with interest, when and as the same shall become due and payable, whether at maturity, or by declaration or otherwise, hereby waiving protest and notice of dishonor, and agreeing to continue and remain bound for the payment of this obligation and all interest and charges thereon, notwithstanding any extension of time or other indulgence granted by the holder hereof, hereby waiving all notice of such extension of time and/or other indulgence, and any and all rights of subrogation in any stock, bonds, notes, or other securities pledged or held as collateral security for the payment of said note and/or interest thereon, unless and until said note and all interest thereon and expenses thereof are paid in full.

In Witness Whereof, \_\_\_\_\_ has caused this guaranty to be signed by its duly authorized officer and its corporate seal to be here-  
70 I. C. C.

unto affixed and duly attested by its secretary this \_\_\_\_\_ day of \_\_\_\_\_,  
A. D. 1921.

[L. s.] \_\_\_\_\_

By \_\_\_\_\_

Attest:

\_\_\_\_\_

Secretary.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 and/or any obligation arising from settlement with the applicant under section 204 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans and obligations.

(e) The applicant has agreed in an instrument in writing, dated the 19th day of November, 1921, filed with the Interstate Commerce Commission, to the following conditions: The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 8 per cent per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the

obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 3d day of January, 1922.

70 I. C. C.

## FINANCE DOCKET No. 998.

## IN THE MATTER OF THE APPLICATION OF THE NEW ORLEANS, TEXAS &amp; MEXICO RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING ADDITIONS AND BETTERMENTS.

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*Submitted November 12, 1921. Decided November 21, 1921.*

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Authority granted to divert \$51,826 of proceeds of the loan of \$234,000 for additions and betterments, certified in this proceeding under date of February 5, 1921, to the making of certain additions and betterments not contemplated in the original applications. Previous report, 67 I. C. C., 73.

*J. S. Pyeatt* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

On February 5, 1921, we issued our report and certificate No. 70 to the Secretary of the Treasury, 67 I. C. C., 73, approving a loan of \$234,000 by the United States to the New Orleans, Texas & Mexico Railway Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of aiding the applicant in making additions and betterments, as follows:

## Additions and betterments:

To existing equipment.....	\$61,000
To way and structures—	
New 85-pound rail.....	52,912
Yards and sidings.....	248,589
Fuel-oil stations.....	15,195
Shop buildings.....	15,550
Shop machinery.....	75,000

---

Total additions and betterments..... 468,246

On November 12, 1921, the applicant filed an amendment to its application in which it sets forth expenditures made from the proceeds of the loan to August 31, 1921, and charged to capital account, aggregating \$152,475, and expenditures obligated and chargeable to capital account amounting to \$29,699, making a total of \$182,174 expended and obligated as of August 31, 1921, as follows:

70 I. C. C.

	Amount of loan.	Expended and obligated.
<b>Additions and betterments:</b>		
To equipment.....	\$30,500	\$30,500
To way and structures—		
New 85-pound rail.....	28,456	16,609
Yard and sidings.....	124,295	71,548
Fuel-oil stations.....	7,474	4,253
Shop buildings.....	7,775	8,179
Shop machinery.....	37,500	51,085
<b>Total.....</b>	<b>234,000</b>	<b>182,174</b>
Leaving an unused amount of.....	.....	51,826

The applicant represents to us that a change in its additions and betterments program was prompted by a rapid decline in the volume of its traffic which began in the early part of 1921, resulting in curtailment, abandonment, and other changes in the work originally contemplated; that when the application for the loan was made the return of an unusually large number of its freight-carrying cars in a worn-out condition was not anticipated and that this equipment had to be rebuilt and strengthened in order to make it serviceable and its upkeep economical. The applicant further represents that on October 1, 1920, its principal locomotive shops and roundhouse at Kingsville, Tex., were totally destroyed by fire, and in the rebuilding of these facilities more modern machinery has been installed, thereby increasing the capacity of the shops and effecting a substantial saving in their operation.

The applicant requests authority to apply the unused proceeds of the loan to the following purposes:

Additions and betterments to—

Existing equipment .....	\$15,321
Shop buildings.....	29,740
Shop machinery.....	6,889
<b>Total.....</b>	<b>51,950</b>

After investigation, we find that the purposes for which this diversion is requested are necessary in order to enable the applicant properly to meet the transportation needs of the public, and the applicant is hereby authorized to apply the proceeds of the loan accordingly. As our original certificate did not specify the particular items of additions and betterments to which the loan might be applied, no amendment thereof is necessary.

Done at Washington, D. C., this 21st day of November, 1921.

70 I. C. C.



## FINANCE DOCKET No. 1610.

## IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ISSUE SECURITIES.

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*Submitted November 10, 1921. Decided November 21, 1921.*

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Authority granted to issue \$3,000,000 of first-mortgage bonds, said bonds to be sold at not less than 94 per cent of par and accrued interest.

*Cutcheon, Taylor, Bowie & Marsh* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Western Pacific Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$3,000,000 of its first-mortgage bonds, said bonds to be sold at not less than 94 per cent of par and accrued interest, and the proceeds thereof applied to the redemption and payment at par and accrued interest of \$2,700,000 of its outstanding equipment gold notes and to reimburse the applicant in part for the payment of \$300,000 of such notes which became due and were paid August 1, 1921. No objection to the granting of the application has been made.

Heretofore the applicant found it necessary to acquire for use in the operation of its properties the following equipment: 5 mikado-type freight locomotives with accompanying tenders; 400 steel-underframe gondola cars of 50 tons capacity; and 1,500 steel-underframe box cars of 40 tons capacity. Arrangements were made by the applicant to purchase the required equipment under an agreement of conditional sale dated August 1, 1918, with the Equitable Trust Company of New York, at an aggregate cost of \$4,125,625. By the terms of this agreement \$525,625 was to be paid in cash and the remaining \$3,600,000 paid in 12 consecutive annual installments of \$300,000, evidenced by equipment gold notes, bearing interest at the rate of 6 per cent per annum. There are now outstanding \$2,700,000 of these notes, held by the Equitable Trust Company of New York.

The first mortgage, under which the proposed bonds are to be issued, is dated June 26, 1916, and was made by applicant to the First Federal Trust Company and Henry E. Cooper, trustees. It authorizes the issue of not to exceed \$50,000,000 of first-mortgage gold



thereof, with accrued interest, and the principal thereof to be payable March 1, 1946; said bonds to be sold to the highest bidder at not less than 94 per cent of their face value and accrued interest; the proceeds of such sale to be used solely for the purposes set forth in the application.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission, within 10 days thereafter, all pertinent facts relating to (1) the issue of said first-mortgage bonds; and (2) the application of the proceeds realized from such issue, including the account or accounts charged therewith; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

FINANCE DOCKET No. 1665.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY FOR AUTHORITY TO ASSUME LIABILITY IN RESPECT OF A NOTE.

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*Submitted November 2, 1921. Decided November 21, 1921.*

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Authority granted to assume obligation or liability in respect of a note for \$85,000, made by J. A. Cullen under date of February 16, 1921.

*E. G. Buckland* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The New York, New Haven & Hartford Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to assume obligation or liability in respect of a note for \$85,000, made by J. A. Cullen to Sophia Keely, under date of February 16, 1921. No objection has been made to the granting of the application.

It appears that the applicant's plans for future development contemplated the purchase of certain land in the city of Waterbury, Conn., in order to consolidate its holdings in the vicinity of its freight yards at that place and to eliminate certain passways; and that the applicant's real-estate department has arranged to purchase the land for \$115,000, making a cash payment of \$30,000, and effecting a purchase-money mortgage for the remainder.

In order that the grantor might have a first lien on the land to secure the payment of the remainder of the purchase price, the applicant states that it was found necessary, in view of the provisions of two of its mortgages, to have conveyance made to J. A. Cullen, an employee in its real-estate department, and to have him give the grantor a note for \$85,000 and a mortgage deed of the land as security therefor. The note is dated February 16, 1921, and is payable to the order of Sophia Keely, three years after date, with interest at the rate of 6 per cent per annum, payable semiannually. As a part of the same transaction, J. A. Cullen executed a quitclaim deed of the property to the applicant, wherein, after reference to the mortgage indebtedness as evidenced by the note, it is provided that the appli-

cant "by the acceptance of this deed hereby agrees to assume said mortgage indebtedness, principal and interest, and agrees to pay the same."

While the applicant is not to make any indorsement on the note, or sign any agreement assuming the payment thereof, it appears that assumption of the mortgage indebtedness by acceptance of the quitclaim deed is, under the laws of Connecticut, tantamount to assumption of payment of the principal of the note and interest thereon.

We find that the proposed assumption by the applicant of obligation or liability in respect of the note of J. A. Cullen, as aforesaid, (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to made part hereof:

*It is ordered*, That for the purpose of acquiring from J. A. Cullen a tract of land described in said report, the New York, New Haven & Hartford Railroad Company be, and it is hereby, authorized to assume obligation or liability in respect of the payment of the principal and interest of a promissory note in the face amount of \$85,000, made by said J. A. Cullen under date of February 16, 1921, payable to the order of Sophia Keely, three years after date, with interest at the rate of 6 per cent per annum, payable semiannually; said assumption of obligation or liability to cover part of the consideration for the purchase of said land and to be accomplished by the acceptance by the applicant of a quitclaim deed of said land from said J. A. Cullen.

*It is further ordered*, That the applicant shall report to this commission, within 10 days thereafter, respectively, all pertinent facts relating to (1) its assumption of obligation and liability in respect of said note, and (2) the payment or other satisfaction thereof; said reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said note, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1050.

## IN THE MATTER OF THE APPLICATION OF THE WICHITA NORTHWESTERN RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO MEET MATURING INDEBTEDNESS AND TO PROVIDE ADDITIONS AND BETTERMENTS.

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*Submitted October 24, 1921. Decided November 22, 1921.*

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Upon reconsideration of one of the conditions of certificate of June 11, 1921, said certificate so amended as to provide that the time within which the applicant shall finance \$178,000 in connection with the loan be extended from 90 to 180 days from the making thereof. Previous report, 67 I. C. C., 522.

*Edward E. Gann* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

On June 11, 1921, we issued certificate No. 95 to the Secretary of the Treasury, 67 I. C. C., 522, approving the making of a loan of \$381,750 by the United States to the Wichita Northwestern Railway Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to meet its maturing indebtedness and to provide itself with additions and betterments.

One of the conditions of the loan was that the entire loan for maturing indebtedness (\$200,000), including the entire amount to be financed by the applicant, approximately \$178,000, should be arranged for in a manner satisfactory to the commission within 90 days from the making of the loan. The proceeds of the loan were received by the applicant from the Secretary of the Treasury on June 29, 1921; therefore the period of limitation expired September 27, 1921.

On August 3, 1921, the applicant, by its attorney, made certain representations to us as to the applicant's plan of meeting the above condition; and on October 24, 1921, represented that it was unable to comply with the condition and requested that the time within which said condition was to be fulfilled be extended.

After investigation we find that the required authority should be granted, and our certificate of June 11, 1921, will be so amended as to extend the period within which said condition must be complied with, for 90 days.

COMMISSIONER DANIELS dissents.

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*Amendment to Certificate No. 95 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 95 of June 11, 1921, to the Secretary of the Treasury, approving the making of a loan of \$381,750 by the United States to the Wichita Northwestern Railway Company by changing subparagraph 5(e) to read as follows:

(e) The applicant has agreed in an instrument in writing, dated the 18th day of May, 1921, supplemented the 18th day of November, 1921, and filed with the Interstate Commerce Commission, to the following conditions: (1) The amount to be financed by the applicant in connection with the loan shall be so financed that the cost to the applicant of any loans secured from sources other than the United States shall not exceed  $7\frac{1}{2}$  per centum per annum, including in such costs discounts, attorneys' fees, and any and all other expenses in connection with said loans; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; (3) the applicant shall furnish the commission on or about January 1 and July 1, 1922, the detailed certificate under oath of its chief engineer showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan for additions and betterments shall have been expended or definitely obligated for purposes for which loaned, or the entire loan for additions and betterments shall be repaid to the United States, on or before July 1, 1922; (4) the proceeds of the loan for additions and betterments shall be expended for the purpose for which loaned, with the advice and concurrence of the Public Utilities Commission of the State of Kansas; (5) the management of applicant's property, at all times during the life of the loan, shall be satisfactory to the commission; (6) the entire loan for maturing indebtedness (\$200,000), including the entire amount to be financed by the applicant (approximately \$178,000), shall be arranged for in a manner satisfactory to the commission within 180 days from the making of the loan.

Done at Washington, D. C., this 23d day of November, 1921.

70 I. C. C.



## FINANCE DOCKET No. 1558.

## IN THE MATTER OF THE APPLICATION OF THE LOUISIANA &amp; PACIFIC RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted November 16, 1921. Decided November 22, 1921.*

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Certificate issued authorizing the abandonment of a branch line of railroad in Beauregard Parish, La.

*Baker, Botts, Parker & Garwood* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Louisiana & Pacific Railway Company, a carrier by railroad subject to the interstate commerce act, filed an application on August 18, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of a branch of its line of railroad located in the parish of Beauregard, La. The Louisiana Public Service Commission states that no parties in interest have brought to the attention of that body objections to the granting of the certificate requested. The case was submitted, therefore, without formal hearing.

The branch line in question extends in a generally easterly direction from a junction with the joint line of the applicant and the Lake Charles & Northern Railway Company, at Longville, Beauregard Parish, La., to Vandercook, Beauregard Parish, La., a distance of 5.5 miles. Originally constructed in two sections by the Longville Lumber Company as a logging facility, the branch line was acquired by the applicant through purchase, the first section upon its completion in 1908, and the second upon its completion in 1911. The cost of the line, as carried in the investment account of the applicant, was \$54,234.84. The use of the right of way was donated by the lumber company. No bonds, notes, or other evidence of indebtedness rest wholly or in part upon the branch line or its earnings. It was built specifically to transport from Vandercook to Longville logs of the lumber company originating on the railroad of that company, which connects at Vandercook with the applicant's line. No

passenger traffic and only a small amount of miscellaneous freight traffic was handled by the applicant on the branch line.

For reasons of economy in operation, the applicant and the Longville Lumber Company entered into a contract on January 1, 1915, whereby the applicant granted to the lumber company trackage rights for logging trains over the branch line and leased to the lumber company one locomotive and 75 logging cars.

On June 3, 1921, the mill of the lumber company at Longville was destroyed by fire. It will not be rebuilt and, as the lumber company decided to transport no more logs between Vandercook and Longville, it has sought from the applicant an abrogation of the aforementioned trackage contract and lease of equipment. Longville will be abandoned, as it is merely a sawmill station.

The territory traversed by the branch line is practically uninhabited. No industries of any kind are located in it and the products of agriculture are negligible. The applicant urges that, as there is no general public to be served by the line and as the logging operations have ceased, it could no longer operate the line except at a total loss.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the branch line of railroad in question. A certificate to that effect will be issued.

---

*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment, by the Louisiana & Pacific Railway Company, of its branch line of railroad extending from Vandercook to Longville, in the parish of Beauregard, La., described in the application and report aforesaid.

*It is ordered,* That the said Louisiana & Pacific Railway Company be, and it is hereby, authorized to abandon said branch line of railroad.

*It is further ordered,* That the said Louisiana & Pacific Railway Company, when filing schedules canceling tariffs applicable to said branch line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

## FINANCE DOCKET No. 1412.

## IN THE MATTER OF THE APPLICATION OF THE ANN ARBOR RAILROAD COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Approved November 25, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

SUPPLEMENTAL ORDER.<sup>1</sup>

Upon further consideration of the application in this proceeding:

*It is ordered*, That the order entered in said proceeding, dated June 29, 1921, be, and it is hereby, supplemented as follows:

That the Ann Arbor Railroad Company be, and it is hereby, authorized to increase the rate of interest from 5 per cent to 6 per cent per annum on not exceeding \$2,000,000, principal amount, of its improvement and extension mortgage 30-year 5 per cent gold bonds, heretofore authenticated and issued under and pursuant to, and secured by, its improvement and extension mortgage, dated May 1, 1911, to the Empire Trust Company; and also to alter, amend, and modify certain other provisions of said improvement and extension mortgage of May 1, 1911; said increase in the rate of interest and changes in said improvement and extension mortgage to be accomplished by the supplemental mortgage mentioned in said order of June 29, 1921, made by said Ann Arbor Railroad Company to said Empire Trust Company, dated as of November 1, 1920, but actually executed and delivered on the 15th day of January, 1921, and by the stamping of each bond with a notice that the holder thereof, or his predecessor in title, has consented to and accepted the provisions of said supplemental mortgage.

*It is further ordered*, That, except as herein modified, said order of June 29, 1921, shall remain in full force and effect.

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<sup>1</sup> Original order, 70 I. C. C., 36, 37.

## FINANCE DOCKET No. 1544.

## IN THE MATTER OF THE APPLICATION OF THE LEAVENWORTH &amp; TOPEKA RAILROAD COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK.

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*Submitted September 29, 1921. Decided November 25, 1921.*

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Authority granted to issue \$52,175 of common capital stock to the Leavenworth & Topeka Railroad Aid Benefit Districts of Leavenworth and Jefferson Counties, Kans., in exchange for a like amount of aid bonds. Terms and conditions prescribed.

*E. H. Hogueland* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Leavenworth & Topeka Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for (1) an order approving an issue of \$2,175 of its capital stock to the Leavenworth & Topeka Railroad Aid Benefit District of Leavenworth County, Kans., hereinafter called the Leavenworth district, in exchange for a like amount of aid bonds issued to the applicant by that district, and an issue of \$50,000 of its capital stock to the Leavenworth & Topeka Railroad Aid Benefit District of Jefferson County, Kans., hereinafter called the Jefferson district, in exchange for a like amount of aid bonds issued to the applicant by that district, these issues of stock having been made without the authorization required by law; or (2) authority under section 20a of the interstate commerce act to issue \$2,175 of its capital stock to the Leavenworth district, and \$50,000 of its capital stock to the Jefferson district in exchange for the bonds issued to it by those districts. No objection to the granting of the application has been offered.

The applicant was incorporated in 1918 under the laws of Kansas. In November, 1919, the Leavenworth and Jefferson districts voted to extend aid to the applicant by issuing to it aid bonds of those districts in the amounts of \$25,000 and \$50,000, respectively, with the understanding that stock of the applicant would be issued in like respective amounts to the aid districts in exchange for the aid bonds. At that time the applicant's authorized capital stock was \$100,000, of which \$77,175 was issued and outstanding. On November 25, 1919, an increase in its authorized capital stock from \$100,000 to \$200,000

was voted by the applicant's stockholders for the purpose of exchanging a portion thereof for the aid bonds. On March 1, 1920, \$25,000 of aid bonds were issued to the applicant by the Leavenworth district, and \$50,000 by the Jefferson district. On April 1, 1920, the applicant issued \$25,000 of its stock to the Leavenworth district. Of this amount \$2,175 was issued without authority from the Kansas Court of Industrial Relations. On February 9, 1921, the applicant issued \$50,000 of its capital stock to the Jefferson district without our authorization.

Aid bonds in the sum of \$35,500 have been pledged by the applicant to secure \$43,274.96 of short-term notes, the proceeds of which have been used for the following purposes:

1. Purchase of additional locomotive.....	\$9, 000. 00
2. Additions and betterments to road.....	2, 891. 10
3. Equipment .....	4, 224. 18
4. General expenditures chargeable to investment in road and equipment.....	525. 66
5. Operating deficits in 1919 and 1920.....	25, 884. 02
6. Operating deficit, 1921.....	750. 00
Total.....	43, 274. 96

Under our accounting classifications only the first four of these items are chargeable to capital account.

The applicant operates a line of railroad between Leavenworth, Kans., and Meriden Junction, Kans. It also operates the principal railway terminals in the city of Leavenworth. Practically all of the important industries in Leavenworth are located on its line and depend upon it for service. The applicant's stock is owned by farmers, merchants, and dealers located along its line, who subscribed to the company's stock to prevent abandonment of the road. The people of the two aid districts, including stockholders of the applicant, voted the aid bonds with knowledge that the proceeds thereof would be used to meet operating deficits and to rehabilitate the road, physically and financially. The Kansas Public Utilities Commission has approved the proposed issue of stock, and at the time it issued its certificate was fully advised that the purpose of the issue was to secure aid bonds to assist the applicant in the construction, operation, and maintenance of its property. For many years prior to the organization of the applicant in 1918 the property had been operated by other companies at annual losses ranging from \$25,000 to \$40,000. The applicant has paid no dividends, and its earnings have been insufficient properly to maintain its road and equipment. The acceptance of the aid bonds seemed to offer the only practical means of saving the road and insuring its continued operation. The aid benefit districts assumed the burden of these bonds, and the applicant, by its acceptance

of the bonds, became legally bound to deliver the stock to the aid districts in exchange therefor.

The applicant's balance sheet, dated July 31, 1921, shows investment in road and equipment of \$114,135.17 and other investments of \$58,500. It shows no funded debt. By our order of August 3, 1921, in *Bonds of Leavenworth & Topeka R. R.*, 70 I. C. C., 288, the applicant was authorized to issue \$80,000 of first-mortgage 7 per cent bonds. Of this amount, however, \$20,000 of bonds have been deposited with a trustee for the purpose of creating a sinking fund as required by the laws of Kansas, the net result being that the applicant's capital liability with respect to this bond issue amounts to \$60,000. Of these bonds, \$57,000 are outstanding and \$3,000 are in the hands of the company to be sold for the purpose of reimbursing its treasury for capital expenditures. The applicant's capital liabilities, therefore, including the proposed issue of \$52,175 of common stock and the \$60,000 of first-mortgage bonds, will amount to \$212,175, while the book value of its capital assets amounts to \$172,635.17. Its capital liabilities will, therefore, exceed its capital assets in the amount of \$39,539.83. The applicant represents, however, that the scrap value of its physical property is probably equal to the total amount of its capital liabilities, including the proposed increase in its capital stock and the first-mortgage bonds above mentioned.

Under the circumstances, we are of the opinion that the proposed issue of stock should be authorized, subject to the condition, however, that before the applicant shall declare any dividends on its capital stock it shall establish out of future earnings a parity between its capital investment and capital liabilities.

Our order will provide that capital stock aggregating \$52,175 issued without authorization on April 1, 1920, and February 9, 1921, respectively, shall be retired, canceled, and replaced by stock for like amount issued under this authority.

We therefore find that the proposed issues of capital stock by the applicant as aforesaid (a) are for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

70 I. C. C.

## ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Leavenworth & Topeka Railroad Company be, and it is hereby, authorized to issue to the Leavenworth & Topeka Railroad Aid Benefit District of Leavenworth County, Kans., 217½ shares of its common capital stock of the par value of \$10 per share, and to the Leavenworth & Topeka Railroad Aid Benefit District of Jefferson County, Kans., 5,000 shares of its common capital stock of the par value of \$10 per share; said stock to be represented by certificates in the form submitted with the application; said stock to be issued to said benefit districts in exchange, dollar for dollar, for aid bonds heretofore issued to the applicant by said districts: *Provided, however*, that before the applicant shall declare any dividends upon its capital stock it shall expend from income not less than \$40,000 for additions and betterments to its property and/or in the retirement of first-mortgage bonds now outstanding, which amount shall not be capitalized.

*It is further ordered*, That the Leavenworth & Topeka Railroad Company shall, coincidently with the issue of the stock herein authorized, retire, cancel, and replace said capital stock aggregating \$52,175, issued without authorization.

*It is further ordered*, That, except as herein authorized, said stock shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the issue and delivery of said stock to said benefit districts; and for the period ending December 31, 1921, and for each period of six months thereafter, within 30 days after the close of such period, the applicant shall report to this commission the amounts expended from its income for additions and betterments and/or in retirement of its first-mortgage bonds, continuing such reports until \$40,000 shall have been thus expended; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.



## FINANCE DOCKET No. 1612.

IN THE MATTER OF THE JOINT APPLICATION OF THE  
ROCK COUNTY TELEPHONE COMPANY AND THE WIS-  
CONSIN TELEPHONE COMPANY FOR A CERTIFICATE  
THAT ACQUISITION BY THE LATTER OF THE PROP-  
ERTY OF THE ROCK COUNTY TELEPHONE COMPANY  
WILL BE IN THE PUBLIC INTEREST.

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*Submitted November 7, 1921. Decided November 25, 1921.*

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Certificate issued authorizing the acquisition by the Wisconsin Telephone Company of the property of the Rock County Telephone Company.

*Henry R. Trumbower* for the Railroad Commission of Wisconsin.

*M. P. Richardson* for the Rock County Telephone Company.

*J. F. Krizek* for the Wisconsin Telephone Company.

*Roger G. Cunningham*, city attorney, for the city of Janesville.

*F. B. McKinnon* for the United States Independent Telephone Association.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Rock County Telephone Company, hereinafter referred to as the Rock County Company, and the Wisconsin Telephone Company, hereinafter called the Wisconsin Company, on October 13, 1921, filed a joint application pursuant to the provisions of section 5 of the interstate commerce act, as amended by act of Congress approved June 10, 1921, amending section 407 of the transportation act, 1920, for a certificate that the acquisition by the Wisconsin Company of the property of the Rock County Company will be of advantage to the persons to whom service is to be rendered, and in the public interest.

Upon receipt of such application we fixed a time and place for a public hearing thereon and thereupon gave reasonable notice in writing to the Governor and the Railroad Commission of the State of Wisconsin, the only State in which the physical property affected, or any part thereof, is situated. A hearing was held pursuant to such notice.

The Rock County Company is engaged in furnishing local and long-distance telephone service in the city of Janesville, Rock County, Wis., and in the territory surrounding that city. It maintains a complete switchboard and wire plant in Janesville, serving approximately 2,315 subscribers. It also performs switching service for a

number of rural lines in that vicinity and owns certain toll lines connecting its exchange with those of other companies in neighboring municipalities. It has outstanding capital stock of the par value of \$126,200. Its indebtedness consists of first-mortgage bonds of the principal amount of \$36,100, and \$42,600 of notes payable.

The Wisconsin Company owns and operates a separate exchange in Janesville, serving 3,550 subscribers, and also switches a number of rural lines. The company also owns and operates exchanges in most of the principal cities in Wisconsin, which are connected by toll lines for the transmission of long-distance messages both within and beyond the confines of the State. Its capital investment at its Janesville exchange on December 31, 1920, according to the findings of the Railroad Commission of Wisconsin, was \$286,221.24. Its capital stock is owned by the American Telephone & Telegraph Company.

The two companies have entered into a contract which provides, in effect, that the Rock County Company shall transfer to the Wisconsin Company all of its physical property except its central office building in Janesville, for the sum of \$190,000, of which \$20,000 is to be paid in cash upon delivery of a satisfactory deed of conveyance of the property, and the remainder covered by certain notes of the Wisconsin Company maturing on or before five years from their date, bearing interest at the rate of 7 per cent per annum, and secured by a mortgage covering all of the property of the Wisconsin Company at Janesville. The Wisconsin commission has heretofore approved the contract and authorized the Wisconsin Company to issue the securities therein provided for, and has also by order established a schedule of rates effective for the consolidated exchange, which it is estimated will serve about 5,143 stations. Making an allowance to cover the proportion of value of the general office equipment assignable to this exchange, and to cover the cost of unifying the exchanges, the Wisconsin commission finds that the aggregate fixed-capital investment in used and useful property of the consolidated exchange will be \$470,000, including an allowance for materials and supplies and working capital. The rates authorized, on the basis of this aggregate investment, range from 60 to 70 per cent higher than those in effect at the separate exchanges, and it is stated by the Wisconsin commission that these rates "conform generally with the schedules which have recently been authorized" in other localities of similar size. By a supplemental order that commission has also dealt with the subject of obsolescence, and has found that the Wisconsin Company may charge to its property and plant accounts a sum not exceeding \$64,800, representing the value of useful property acquired, which will remain in use after the physical unification of the two exchanges has been effected. Such order further provides that the remainder of the purchase price shall be charged by the Wisconsin

Company to its surplus account or be amortized as a deduction from income over a period of not to exceed 10 years.

For many years the telephone-using public at Janesville has been subjected to the inconvenience and expense attendant upon the maintenance of duplicate telephone plants in the same community. It is pointed out that business and professional men must as a matter of course become subscribers of both exchanges; that the duplicate wire plants unnecessarily encumber the streets and the dual maintenance and operating expense ultimately falls upon the telephone user; and that fundamentally there can be no economic justification for continued competition in a business which is in reality a natural monopoly. It further appears that all matters affecting rates and service of the two companies are within the supervisory control of the State commission; therefore no actual competition can exist, and all attempts to maintain artificial competitive conditions are likely to result in financial embarrassment to one or the other of the utilities involved. A number of years ago an attempt was made at Janesville to reduce the inconvenience resulting from this duplication by recourse to compulsory physical connection of the two exchanges for the transfer of local, as well as long-distance, messages from one system to the other, each such transfer carrying a charge of 5 cents, paid by the subscriber at whose station the call originated and accruing to the company completing the connection. It appears, however, that such arrangement has not proved adequate to meet the situation. Local opinion is unanimous that nothing short of a unified service will solve the difficulty and that even with the high exchange rate, after such unification has taken place, the consolidation will in the long run be of advantage to the community as a whole.

Upon the facts presented we find that the proposed acquisition, as set forth in the joint application herein, will be of advantage to the persons to whom service is to be rendered and in the public interest. A certificate to that effect will be issued.

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*Certificate of Advantage and Public Interest.*

A hearing having been had in this proceeding, and full investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the acquisition by the Wisconsin Telephone Company of the property of the Rock County Telephone Company as described in said report will be of advantage to the persons to whom service is to be rendered and in the public interest.

## FINANCE DOCKET No. 3.

## IN THE MATTER OF THE APPLICATION OF THE KANSAS CITY, MEXICO &amp; ORIENT RAILROAD COMPANY, ITS RECEIVER, AND THE KANSAS CITY, MEXICO &amp; ORIENT RAILWAY COMPANY OF TEXAS, FOR A LOAN.

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*Submitted November 18, 1921. Decided November 26, 1921.*

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Loan of \$2,500,000 approved for the purpose of meeting the maturity of a previous loan of like amount certified in this proceeding. Previous report, 65 I. C. C., 265.

*William T. Kemper and Clifford Histed* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

On October 11, 1920, we issued our report and certificate No. 33 to the Secretary of the Treasury, 65 I. C. C., 265, approving the making of a loan of \$2,500,000, for a term of one year from December 1, 1920, to William T. Kemper, receiver of the Kansas City, Mexico & Orient Railroad Company, hereinafter referred to as the applicant, for the purpose of enabling the applicant to pay off and discharge a receiver's certificate of indebtedness in a like principal amount. This loan was secured by the pledge of a new receiver's certificate maturing continuously therewith on December 1, 1921.

On November 18, 1921, the applicant filed a supplemental application with us requesting an additional loan of \$2,500,000, or, as an alternative, for an extension of the time for payment of the existing loan, for such period of time and upon such terms as we may determine and prescribe. In this supplemental application the applicant sets forth that due to high wages and cost of material, and of everything entering into the operation of railways, coupled with the widespread economic depression which has existed ever since the original loan was negotiated, the property operated by the applicant has failed to earn any sum applicable to the payment of the principal of the loan; that the applicant had hoped he would be able to procure the funds necessary to discharge the existing loan and to reorganize the property from those already financially interested therein, notably certain residents of Great Britain who have manifested a strong interest and purpose to preserve the property, and as such a plan had

been developed the applicant confidently believed, until very recently, that it would be consummated; that the applicant now learns, however, the money will not be forthcoming, and has no doubt the reason is attributable to the great financial depression and political uncertainty existing throughout the British Empire. This application further states that while there are in the United States a number of individuals who might cooperate in a reorganization plan they would not assume anything beyond a small part of the financial burden involved, and the applicant does not know of any source from which he can, at this time, secure the necessary funds with which to meet his obligation to the United States.

It is apparent that applicant needs more time in which to put into effect a permanent plan of financing. It is also apparent that the applicant can not do this within another period of one year. The tonnage of the applicant consists very largely of live stock and the products of agriculture, the production of which has suffered very severely in the economic depression which began at the close of the preceding year. The applicant's railroad as it exists to-day, while representing a very large measure of public convenience and necessity—more than 80 towns and villages having been built upon the line—and while giving promise of ultimate success when completed and with the development naturally to be anticipated, lacks sufficient traffic and diversification of tonnage to sustain it in periods of abnormal depression such as it has recently experienced.

After investigation, we find that the making of the proposed loan by the United States for a term of two years for the purpose and in the amount herein above set forth, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the property in the hands of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet his other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide himself with funds necessary for aforesaid purposes from other sources.

An appropriate certificate will be issued.

DANIELS, *Commissioner*, dissenting:

The purpose contemplated by the making of the proposed loan of \$2,500,000 is one which ought to be effectuated by act of Congress, and in the light of the existing situation the loan can not lawfully be made by this commission.

On October 11, 1920, we issued our report and certificate No. 33 to the Secretary of the Treasury approving the making of a loan

of \$2,500,000 to the applicant. Upon the original hearing in this matter we had denied the application for the loan requested. This was on July 1, 1920, at a time when rates had not been increased under *Increased Rates, 1920*, 58 I. C. C., 220. We were petitioned for a reconsideration of our denial, and after further hearing and consideration made the loan as above recited. The loan was secured by receiver's certificates in like amount and the collateral carried, under the order and decree of the court, a first, prior, and underlying lien upon all the property of the applicant and its receiver. The evidence of record showed that the cost and the present value of the property was many times in excess of the loan for \$2,500,000. At the hearing held on June 3, 1920, upon the earlier application of the Kansas City, Mexico & Orient, and as receiver, the attorney for the applicant was asked "If the carriers in the western classification territory are asking 25 per cent increase in rates, and that is granted, would that enable your road to pay its way?" To this the reply was "That, and a very slight addition to our business will not only enable it to pay its way, but will enable it to pay its interest." At the same hearing the general manager explained that the road was in good condition, particularly its rail; that its bridges were safe; and that its equipment was ample; that it could afford transportation without any delay from congestion affecting other carriers at that time, and concluded "As an operating official, of course, we do not want to use any money for operation that we do not earn, if it can be avoided, and we believe if we get the opportunity that we have suggested here, and get just a little relief, that we can not only earn our operating expenses, but a revenue. As a matter of fact, as nearly as we can estimate this now, if we had 60 loaded cars in each direction daily, we would pay interest on this proposed loan. We are not asking for alms, we just want a chance to work."

Urgent representations were made to the commission from various sources urging the importance and necessity of making a loan to the applicant in order to enable it to serve the communities situated on its line. It appeared that some of these places were 80 miles from any other carrier, and that a large number of communities were wholly dependent upon the service afforded by the applicant. In the light of all the circumstances: first, the urgent and important need for the continuance of service to the region traversed by this line; second, the seemingly unquestioned security for the principal of the loan; third, the general rate increase under *Increased Rates, 1920*, supra; fourth, the representations that the road could immediately be made to pay operating expenses and earn interest, we reconsidered our previous denial and made the loan. The aforesaid loan was made for a period of one year.



As the date of maturity of the first loan approaches we are asked to make a second loan for the same amount, which in substance, although not in form, is a renewal of the original loan for a further period. Counsel for the applicant has stated to us that the applicant does not feel under the necessity of commencing at the present time an action before us for increasing divisions from its connections nor for requiring the routing of additional traffic over its lines. The industrial depression which set in not long after the original loan was concluded, and the fact that live stock and agriculture have been particularly depressed, in part by price deflation and in part by drought conditions in the territory served by this carrier, have tended to make its financial showing unfavorable for the current calendar year. For the calendar year 1920 the net revenue from railway operations was a deficit of \$1,321,304. For the first nine months of 1921 there has been an operating deficit for every month except July and August. Apparently the deficit from railway operations, exclusive of tax accruals, will have amounted to about \$480,000 in the first nine months of the current calendar year. At this rate the deficit from operation would exceed \$600,000 for the year.

For the present and for some indefinite period to come it is certain that this carrier as it stands to-day can not earn its operating expenses. At the same time it is also to be said that the communities it serves are, if anything, more urgently in need of continued service than they were when the original loan was made. In this situation, it being known that the road's traffic can not meet its operating expenses, it may well be argued that for a carrier of its length, serving as it does numerous communities solely dependent upon it for service, there is strong reason why the Government of the United States should undertake to defray the deficit of operation until such time as the road can become, or be made, self-sustaining. Unfortunately, the language of the transportation act does not confer upon this commission the power by continuing this loan to effectuate the very desirable and laudable purpose in view.

Section 210(b) of the transportation act provides:

If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan by the United States, for one or more of the aforesaid purposes, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the Commission shall certify to the Secretary of the Treasury its findings of such facts \* \* \*.

Included among the "other obligations" mentioned in the above paragraph are periodical interest charges. Not only is the prospect



that these periodically maturing interest charges can not be met out of the earnings of the carrier, but the initial interest payments, if made at all, will be simply exhausting the principal of the loan here requested. It is quite beside the point to say that the construction here placed upon this section of the statute involves a banker's view of the value of security required for a loan. The "reasonable assurance" which the statute mentions expressly allows a latitude in certifying loans which a prudent banker could not indulge in. The point here insisted upon is that before we may lawfully certify a loan to the carrier we must have reasonable assurance of the applicant's ability to repay the principal and to meet attendant obligations in connection with the loan, such as interest payments. I do not think that the facts before us give the reasonable assurance which the statute makes a condition precedent to our certification. I believe the remedy required by this situation should be directly applied by the Congress, which has the power, and not indirectly applied by this commission, where the making of the certificate disregards the legislative limitations that govern the action of an administrative body.

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*Certificate No. 118 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$2,500,000 by the United States to William T. Kemper, receiver of the Kansas City, Mexico & Orient Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet his maturing indebtedness, consisting of the loan for like amount by the United States made pursuant to certificate No. 33, of October 11, 1920, to the Secretary of the Treasury, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the property in the hands of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet his other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$2,500,000.

4. That the time within which the loan is to be repaid in full is two years from December 1, 1921.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of a receiver's certificate of indebtedness in a principal amount of \$2,500,000, which shall mature December 1, 1923, and bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year. The receiver's certificate of indebtedness shall be substantially in the form set forth in paragraph 3 of an order of the United States District Court for the District of Kansas, First Division, dated and entered on November 12, 1921, made in a certain consolidated cause pending in said court, entitled *The Trustees Corporation, Limited, and Columbia Trust Company, Plaintiffs, v. The Kansas City, Mexico & Orient Railroad Company, et al., Defendants*, in equity No. 239-N.

(b) The securities described and identified in subparagraph (b) of paragraph 5 of certificate No. 33, hereinbefore referred to, together with the receiver's certificate of indebtedness due December 1, 1921, and now pledged as security for the loan made pursuant to said certificate No. 33, shall be redeposited with and held by the Secretary of the Treasury as muniments of title. Said certificate of indebtedness due December 1, 1921, shall be canceled by stamping or writing upon the face thereof "Canceled, William T. Kemper, Receiver."

(c) So long as the applicant shall not be in default on any obligation evidencing the loan, he shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(d) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(e) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligations

of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

(f) The applicant has agreed in an instrument in writing, dated the 25th day of November, 1921, filed with the Interstate Commerce Commission, to the following conditions: The applicant shall make no payment out of moneys coming into his possession until the loan and the interest due thereon shall have been repaid in full, except that the legitimate cost of operating the property in the hands of the applicant may be paid out of earnings or other income. In event the commission shall certify to the Secretary of the Treasury that the applicant has failed or refused well and truly to comply with any one or more of the terms and conditions contained in said agreement, the whole or any part of the obligations evidencing the loan, as the commission may designate, shall, at the option of the holder, become due and payable.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide himself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 30th day of November, 1921.

70 I. C. C.

## FINANCE DOCKET No. 76.

## IN THE MATTER OF THE APPLICATION OF THE RECEIVER OF THE KANSAS CITY, MEXICO &amp; ORIENT RAILROAD COMPANY FOR AUTHORITY TO ISSUE RECEIVER'S CERTIFICATE AS COLLATERAL SECURITY.

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*Submitted November 18, 1921. Decided November 26, 1921.*

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Authority granted to issue a receiver's certificate for \$2,500,000 for pledge with the Secretary of the Treasury as security for a loan under section 210 of the transportation act, 1920, as amended. Previous report, 65 I. C. C., 283.

*Clifford Histed* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

By a supplemental application duly filed in this proceeding on November 18, 1921, William T. Kemper, receiver of the Kansas City, Mexico & Orient Railroad Company, acting as a common carrier by railroad in interstate commerce, has requested authority to pledge with the Secretary of the Treasury a certificate for \$2,500,000 as security for a loan under section 210 of the transportation act, 1920, as amended. No objection has been made to the granting of the application.

The applicant was appointed receiver of the Kansas City, Mexico & Orient Railroad Company, and of all its property and assets, by an order of the United States District Court for the District of Kansas entered in the case of *The Trustees Corporation, Limited, and Columbia Trust Company v. The Kansas City, Mexico & Orient Railroad Company et al.*, consolidated No. 239-N, on November 9, 1917. The applicant represents that he now has outstanding a loan for \$2,500,000 from the United States under section 210 of the transportation act, 1920, as amended, which matures December 1, 1921, and which he will be unable to pay. As collateral security for this loan, the applicant has pledged with the Secretary of the Treasury a receiver's certificate in the sum of \$2,500,000, which matures on the same date. This commission has granted the applicant a new loan in the sum of \$2,500,000, under the provisions of section 210 of the transportation act, 1920, as amended, *Loan to Re-*  
70 I. C. C.

ceiver of K. C., M. & O. R. R., 70 I. C. C., 639, for the purpose of repaying the outstanding loan from the United States. As security for this loan the receiver proposes to pledge a new certificate for \$2,500,000, pursuant to authority contained in an order of court dated November 12, 1921, which will be dated December 1, 1921, will bear interest at the rate of 6 per cent per annum, payable semiannually on the 1st day of June and of December, and will mature December 1, 1923.

We find that the proposed issue of a receiver's certificate by the applicant as aforesaid (a) is for a lawful object within the duly authorized purposes of the receiver, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by him of service to the public as a common carrier, and which will not impair his ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

COMMISSIONER DANIELS dissents.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That William T. Kemper, receiver of the Kansas City, Mexico & Orient Railroad Company, be, and he is hereby, authorized to issue a receiver's certificate of indebtedness in the face amount of \$2,500,000, in conformity with, and as authorized by, the order of the District Court of the United States for the District of Kansas entered in consolidated cause No. 239-N on November 12, 1921; said certificate to be dated December 1, 1921, to bear interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year, to mature December 1, 1923, and to be in the form submitted with the application; said certificate to be pledged with the Secretary of the Treasury as security for a loan of \$2,500,000, from the United States to the applicant under section 210 of the transportation act, 1920, as amended, as specified in this commission's certificate No. 118, dated November 30, 1921, in Finance Docket No. 3.

*It is further ordered*, That the receiver's certificate for \$2,500,000 which matures December 1, 1921, and which is now under pledge with the Secretary of the Treasury as security for an outstanding 70 I. C. C.

loan of \$2,500,000 under section 210 of the transportation act, 1920, as amended, shall be canceled immediately upon its release from such pledge.

*It is further ordered,* That except as herein authorized to be pledged, said receiver's certificate shall not be sold, pledged, repledged, or otherwise disposed of by said receiver, or his successor in interest, unless and until so ordered by this commission.

*It is further ordered,* That within 10 days thereafter, respectively, the applicant shall report to this commission all pertinent facts relating to (1) the pledge of said certificate as herein authorized; (2) the release of said certificate from such pledge; and (3) the cancellation of the certificate which matures December 1, 1921, as required above; such reports to be signed by the applicant and verified by his oath.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said certificate, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 941.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO GREAT WESTERN RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING NEW EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS.

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*Submitted November 21, 1921. Decided November 30, 1921.*

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Upon application and consideration thereof, loan of \$240,000 to applicant for period of one year from December 1, 1921, approved. Previous report, 65 I. C. C., 433.

*S. M. Felton and W. W. Sullivan* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

On November 30, 1920, we issued to the Secretary of the Treasury our report and certificate No. 46, 65 I. C. C., 433, approving the making of a loan of \$240,000 by the United States to the Chicago Great Western Railroad Company, hereinafter referred to as the applicant, under the provisions of section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to meet the payment of semiannual interest due December 1, 1920, upon \$12,000,000 of the first-mortgage 4 per cent gold bonds, due 1955, of the Mason City & Fort Dodge Railroad Company, whose railroad is operated under a lease providing that the applicant shall pay the interest (but not the principal) on said bonds, when earned. This loan, which was approved for a term of one year, matures December 1, 1921.

On November 21, 1921, the applicant applied to us for an extension of the term of the loan for one year ending December 1, 1922, the necessity for which the applicant states is due to the fact that because of diminished volume of traffic and the increased cost of maintenance and operation it has been unable to accumulate sufficient funds with which to pay off the loan and to meet also its current requirements.

The applicant further states that with the present outlook for improved traffic conditions and reduced costs it expects to be able to make repayment of the loan when due.

After investigation, we find that the proposed loan of \$240,000 to the applicant for the period of one year from December 1, 1921, 70 I. C. C.



is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security offered, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for the aforesaid purposes from other sources.

An appropriate certificate will be issued.

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*Certificate No. 119 for a Loan under Section §10 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$240,000 by the United States to the Chicago Great Western Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet its maturing indebtedness, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan.

3. That the amount of the loan which is to be made is \$240,000.

4. That the time within which the loan is to be repaid in full is one year from December 1, 1921.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be secured by the pledge of \$480,000, principal amount, of applicant's first-mortgage 50-year 4 per cent gold bonds, due 1959, issued under an indenture of mortgage dated September 1, 1909, executed and delivered by the applicant to the Standard Trust Company of New York as trustee. Said bonds are in definitive coupon form having coupon due March 1, 1922, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered 27561 to 28040, inclusive.

(b) So long as the applicant shall not be in default on any obligation evidencing the loan, it shall be entitled to receive and retain the income on any collateral then pledged as security for the loan, and the holder of the obligation or obligations shall not, while the applicant shall not be in default, collect such income, but shall remit to

the applicant all of the same paid to him, and shall surrender to the applicant all coupons as they mature; but stock dividends declared upon stock then pledged shall be received and held under the same conditions as such stock.

(c) The applicant may repay all or any part of the loan before maturity. The collateral security shall be released proportionately as parts of the loan are repaid, and the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, may at any time release all or any part of said collateral security and/or of any additional security that may be required, upon such terms and conditions as the commission may prescribe.

(d) The applicant shall, on demand of the Secretary of the Treasury, with the concurrence of the Interstate Commerce Commission, deposit with the Secretary of the Treasury such additional security as may be from time to time required; the securities pledged, together with any that may be pledged hereafter, or may have been pledged heretofore, as security for this loan or any other obligation of the said applicant to the United States for loans under section 210 of the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor; and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done at Washington, D. C., this 30th day of November, 1921.

70 I. C. C.

ing, issued under and pursuant to, and secured by the general mortgage dated July 1, 1907, made by the applicant to the American Trust & Savings Bank.

We find that the proposed issue of preferred capital stock by the applicant, as aforesaid (a), is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

A hearing in this proceeding and an investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago & Illinois Western Railroad be, and it is hereby, authorized to issue \$600,000 of 7 per cent noncumulative preferred capital stock, consisting of 6,000 shares of the par value of \$100, the certificates representing said shares to be in the form submitted with the application; said stock to be delivered to the Dolese & Shepard Company in liquidation of \$600,000 of interest-bearing indebtedness of the applicant to that company: *Provided, however*, That before declaring any dividends the applicant shall expend from its income not less than \$309,000 for additions and betterments, as defined in the governing accounting regulations, to its road and equipment, and/or in the retirement of 6 per cent general-mortgage gold bonds, now outstanding, issued under and pursuant to, and secured by, the general mortgage dated July 1, 1907, made by the applicant to the American Trust & Savings Bank.

*It is further ordered*, That, except as herein authorized, said preferred stock shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the issue and delivery of said preferred stock, and for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days from the close of such period, the amounts

its guaranty of payment of the principal and interest indorsed thereon.

The applicant's earnings for a number of years have not been sufficient to meet its operating expenses and pay its fixed charges, and it has borrowed money from time to time from the Dolese Company, which was used for the following purposes:

Equipment .....	\$291, 914. 81
Interest on bonds.....	307, 517. 68
Redemption of bonds .....	4, 250. 00
Unaccounted for .....	1, 117. 51
Total.....	604, 800. 00

The indebtedness of the applicant to the Dolese Company on account of the foregoing advances is now represented by promissory notes aggregating \$398,500 and open accounts for \$206,300. This indebtedness bears interest at the rate of 5 per cent per annum.

In liquidation of \$600,000 of this indebtedness the Dolese Company is willing to accept a like par amount of the applicant's 7 per cent noncumulative preferred capital stock. Authority is now sought to issue such stock for the purpose of extinguishing \$600,000 of the obligation due that company, thereby relieving the applicant from interest charges amounting to \$30,000 per annum.

The applicant's balance sheet as of December 31, 1920, shows investment in road and equipment of \$2,340,844.52, with common capital stock \$1,000,000, general-mortgage bonds \$959,000, and equipment obligations \$89,890 outstanding.

Representation is made that under normal conditions, together with the traffic from industries recently located on applicant's line which are not now in operation, and relief from the \$30,000 annual interest charges, the applicant has reason to believe it will be able to operate at a profit.

Several of the items for which the borrowed funds were expended are of a nature which ordinarily ought not to be capitalized. These items amount to \$309,000, approximately. The issuing of the proposed amount of preferred stock was authorized by the holders of the common stock. It seems clear, moreover, that the issue of the proposed preferred stock, considering the surrounding conditions, will be beneficial to the applicant and afford it a chance under more favorable circumstances to become a prosperous carrier. Authority will therefore be granted on condition that, before declaring any dividends, the applicant shall expend from income not less than \$309,000 for additions and betterments to its property and/or in the retirement of 6 per cent general-mortgage gold bonds, now outstand-

ing, issued under and pursuant to, and secured by the general mortgage dated July 1, 1907, made by the applicant to the American Trust & Savings Bank.

We find that the proposed issue of preferred capital stock by the applicant, as aforesaid (a), is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

A hearing in this proceeding and an investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago & Illinois Western Railroad be, and it is hereby, authorized to issue \$600,000 of 7 per cent noncumulative preferred capital stock, consisting of 6,000 shares of the par value of \$100, the certificates representing said shares to be in the form submitted with the application; said stock to be delivered to the Dolese & Shepard Company in liquidation of \$600,000 of interest-bearing indebtedness of the applicant to that company: *Provided, however*, That before declaring any dividends the applicant shall expend from its income not less than \$309,000 for additions and betterments, as defined in the governing accounting regulations, to its road and equipment, and/or in the retirement of 6 per cent general-mortgage gold bonds, now outstanding, issued under and pursuant to, and secured by, the general mortgage dated July 1, 1907, made by the applicant to the American Trust & Savings Bank.

*It is further ordered*, That, except as herein authorized, said preferred stock shall not be issued, sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the issue and delivery of said preferred stock, and for the period ending December 31, 1921, and for each six months' period thereafter, within 30 days from the close of such period, the amounts

expended from its income for additions and betterments and/or in retirement of its general-mortgage 6 per cent gold bonds, continuing such reports until \$309,000 shall have been thus expended; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said stock, or dividends thereon, on the part of the United States.

FINANCE DOCKET No. 1638.

IN THE MATTER OF THE APPLICATION OF THE ASH-  
LAND COAL & IRON RAILWAY COMPANY FOR AU-  
THORITY TO ISSUE NOTES.

*Submitted October 25, 1921. Decided December 3, 1921.*

Authority granted (1) to issue its promissory note (or notes) for not exceed-  
ing \$180,000, payable to the order of the Ashland Iron & Mining Company  
four months after date with interest at 6 per cent per annum, to cover cur-  
rent indebtedness now carried in open account; and (2) to issue, from time  
to time, its four months' 6 per cent promissory note (or notes) for not  
exceeding \$180,000, in renewal thereof for a period not exceeding two  
years. Terms and conditions prescribed.

*Robert T. Caldwell* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Ashland Coal & Iron Railway Company, of Kentucky, a com-  
mon carrier by railroad engaged in interstate commerce, has duly  
applied for authority under section 20a of the interstate commerce  
act to issue its promissory note (or notes) for \$180,000, payable to  
the order of the Ashland Iron & Mining Company, to cover an open  
book account for a like amount, and to issue a note or notes in re-  
newal thereof from time to time within a period of two years there-  
after. No objection to the granting of the application has been made.

The applicant represents that it is indebted to the Ashland Iron &  
Mining Company for loans and advances made to it by that com-  
pany during a period commencing approximately January 1, 1918.  
The advances, to August 31, 1921, are listed in the first section of the  
following statement of the account:

Labor and materials .....	\$16,520.02	} \$93,659.59
Fuel .....	45,667.89	
Interest on funded debt .....	6,000.00	
Interest on unsecured debt .....	16,188.00	
Taxes .....	9,283.68	} 86,022.64
Balance owed January 1, 1918 .....	937.64	
Dividends declared but not withdrawn .....	85,085.00	
Advances in September, 1921 .....		4,700.00
Total .....		184,382.23

70 I. C. C.



The applicant's note or notes will bear interest at the rate of 6 per cent per annum, and will be accepted at par by the Ashland Iron & Mining Company in satisfaction of \$180,000 of its account with the applicant.

The proposed promissory note or notes and the applicant's other outstanding notes of a maturity of two years or less will together aggregate more than 5 per cent of the par value of the applicant's outstanding securities.

We find that the proposed issues of promissory notes by the applicant as aforesaid (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

An investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Ashland Coal & Iron Railway Company be, and it is hereby, authorized (1) to issue its promissory note or notes for not exceeding \$180,000, aggregate face amount, payable to the order of the Ashland Iron & Mining Company four months after date, with interest at the rate of 6 per cent per annum, said note or notes to be issued to cover current indebtedness of the applicant now carried in open account; and (2) to issue, from time to time, its promissory note or notes for not exceeding \$180,000, aggregate face amount, payable to said Ashland Iron & Mining Company four months after date, with interest at a rate not to exceed 6 per cent per annum, in renewal of the note or notes hereinbefore authorized to be issued; *provided, however*, that the maturity of any note issued in renewal thereof, in accordance with the authority herein granted, shall not extend beyond two years from the date of this order, unless and until otherwise ordered by this commission.

*It is further ordered*, That, except as herein authorized to be issued, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That within 10 days thereafter, respectively, the applicant shall report to this commission all pertinent facts relating to the issue and payment or other satisfaction of the notes herein authorized to be issued; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1237.

## THE CLEVELAND PASSENGER TERMINAL CASE.

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*Submitted November 12, 1921. Decided December 6, 1921.*

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1. On rehearing conclusions previously reached reversed. Previous report, 70 I. C. C., 342.
2. Acquisition by the New York Central Railroad Company, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the New York, Chicago & St. Louis Railroad Company of control of the Cleveland Union Terminals Company, by purchase of capital stock, approved and authorized.
3. Certificate issued authorizing the New York Central Railroad Company, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the New York, Chicago & St. Louis Railroad Company, by and through control of the Cleveland Union Terminals Company, to construct and operate a terminal station and line of railroad constituting the approaches thereto in the city of Cleveland, Ohio.
4. Certain proposed contracts held to grant trackage rights only and not to be within the scope of paragraph (18) of section 1 of the interstate commerce act.

*Wm. H. Boyd* for applicant.

*H. D. Howe* for New York, Chicago & St. Louis Railroad Company.

*F. L. Jerome* for New York Central Railroad Company and Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

*Newton D. Baker* for Cleveland Union Terminals Company.

*Wm. C. Boyle* for Wheeling & Lake Erie Railroad Company, intervener.

*W. B. Woods*, director of law of Cleveland, for W. S. Fitzgerald, mayor of Cleveland, intervener.

*Peter Witt* in his own behalf.

*B. D. Holt* and *Cook, McGowan, Foote, Bushnell & Lamb*, for William Averell Brown and Jean Brown McCook, trustees, Mary G. Clarke, Anna Grace Carter, and Edward Bushnell, trustee, interveners.

*M. A. Crowe*, *R. J. Page*, and *John S. Robb*, interveners, in their own behalf.

## REPORT OF THE COMMISSION ON REHEARING.

CAMPBELL, *Commissioner*:

Our original report in this proceeding was issued on August 12, 1921, 70 I. C. C., 342. Three of the railway companies whose lines reach Cleveland, Ohio—the New York Central Railroad Company, 70 I. C. C.

the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the New York, Chicago & St. Louis Railroad Company—referred to hereinafter as the Central, the Big Four, and the Nickel Plate, respectively, sought our approval of a proposed plan for the construction of a new passenger station and a new line for the movement of passenger trains in that city. Our report dismissed the applications, primarily on the ground that the evidence was insufficient to warrant approval of the plan. The applicants requested a rehearing, which was granted, and the record, supplemented by additional evidence, is now before us for further action.

The details of the plan proposed, as well as the physical aspects of the present terminal situation at Cleveland, are sufficiently stated in our former report. It is conceded by all parties that the existing passenger terminal facilities are antiquated and wholly inadequate. We shall not in the present report deal with the relative merits of the so-called Mall site as compared with those of the plan proposed. The Mall plan is not before us for our approval or disapproval. The question presented is whether the plan now before us for the construction of the "station on the square" and its approaches, is a proper one from the standpoint of the public interest. Nor do we think any useful purpose can be accomplished by a comparison of the relative cost of the two projects.

The foregoing considerations are to be borne in mind in discussing the chief element relied upon by the applicants in establishing their contention that public convenience and necessity require the readjustment and enlargement of railroad terminal facilities in Cleveland. In approaching this problem care must be taken to consider the city of Cleveland not only from the standpoint of local convenience and needs, but as a gateway through which passes a huge volume of through traffic, both freight and passenger. It is undisputed that during the stress of unusual activity in the movement of traffic during the late war, Cleveland was one of the two points at which the congestion was most serious and difficult to relieve. The evidence shows that the greater part of all traffic which passes through, or originates at, Chicago or St. Louis, destined to eastern points, passes through one of these two gateways. It is obvious that the truest economy and the only sound policy will dictate that carriers be equipped to handle promptly and efficiently any volume of traffic which may reasonably be anticipated. The applicants are the only carriers by railroad reaching Cleveland by means of a through route handling through traffic as well as traffic originating at or destined to Cleveland itself. The management of these lines, therefore, must approach their problem from the standpoint of the needs of the entire country in handling through business. A far-sighted policy will make provision for the future as well as for the present, and for unusual as well as nor-

mal conditions. The growth of the city has been rapid. Any plan adopted must assume a continued industrial development in the future, and must take care that such continued expansion will not prevent the reasonably free movement of through traffic. The topography of the district does not permit the building of additional belt lines to carry through freight around the city except at an expense which would be prohibitive. Lake Erie lies just north of the Central's main line. To the south and east of the present Cleveland Short Line the country rises sharply, reaching elevations of 300 to 700 feet above the lake. It is practically impossible to build any more lines of low grades suited to the purpose across this territory, which extends at least 15 to 20 miles to the south and east, except by taking valuable property away from important industries. Between Buffalo and Cleveland the Central has a four-track line, with the exception of about 5 miles. Between Cleveland and Chicago more than half the distance is covered by four tracks. Cleveland is the congesting point of this great highway of national transportation. Although the Cleveland Short Line was built in 1904 to relieve the congestion on the lake-front tracks, that relief proved to be but temporary. The evidence as to congestion during times of normal as well as heavy traffic movement is persuasive that additional facilities are imperatively needed. Freedom of movement is hampered both by the single-tracked drawbridge across the Cuyahoga River and by the industrial development between that point and Collinwood yard, in which section the industrial plants are built so close to the main line as to render prohibitive the cost of additional main trackage. These industries are very largely on the south side of the tracks and the switching must be done across the main line. Studies made by the Central, and uncontradicted on the record, show that during the period of heavy traffic in May, 1918, the main line between the Union Station and Collinwood was occupied by passenger trains and light passenger engines a little more than half of each 24-hour period. Cleveland is growing industrially. Estimates, based on normal growth, indicate 27 per cent increase in the next five years. Looking into the future, the time seems near at hand when local traffic and switching will be of such volume as to make Cleveland a point of constant restriction or blockade of through traffic, unless the facilities are enlarged.

The proposed plan affords an additional route through Cleveland for the through business of the applicants and provides a separate and independent passenger route from Collinwood on the east to Berea on the west, with the great advantage of completely segregating the passenger movement through the city, thus leaving the full capacity of the lake-front tracks and of the Cleveland Short Line available for freight movements only. There is no evidence that

any other feasible plan would accomplish a like result. The prime importance of making such a provision for the future may be deemed sufficient to warrant imposing upon the transportation revenues of the country any reasonable financial burden which the plan may involve. An analysis of the prospective capital charge does not reveal an unreasonable burden on future traffic. Considering the importance of the results to be attained, we can not say that the expenditures proposed are out of proportion to the benefits which interstate commerce will derive therefrom.

In that connection it may be pointed out that the original estimates of the cost of the project were made on the basis of 1920 prices, and that these estimates, as now shown by the applicants, may be reduced by an average of about 20 per cent on account of the present lower cost of labor and materials.

While further evidence was received with respect to the contracts to be made use of in carrying out the proposed plan, it does not appear that these contracts disregard or prejudice the interests of the public. There is no evidence of bad faith or unfair advantage which might work to the disadvantage of the carriers and thus throw an improper burden on interstate commerce.

Upon the facts presented we find that the present and future public convenience and necessity require and will require the construction and operation of the terminal station and a line of railroad constituting the approaches thereto, extending from West Twenty-fifth Street to East Fortieth Street in the city of Cleveland, Ohio, and that it will be in the public interest for the applicants to acquire control of the Cleveland Union Terminals Company by purchase of its capital stock, as aforesaid.

We further find that the contracts proposed to be made by the Central with the Big Four and the Nickel Plate grant to the Central trackage rights only and that authority from us to exercise such trackage rights is unnecessary.

A certificate and order will be issued accordingly.

**EASTMAN, Commissioner, dissenting:**

In this case applicants are not asking merely for a certificate that public convenience and necessity require a new passenger station at the Public Square and a new passenger route through the city. They are proposing a definite plan for the construction, operation, control, and financing of such a station and route, and the essential features of this plan are fixed by certain contracts filed with the applications. We are asked to approve these contracts. The majority say that "it does not appear that these contracts disregard or prejudice the interests of the public."

Although cautiously worded, this amounts to a finding that the contracts in question are consistent with the public interest. It is also recognition that the location of the station can not be divorced from the incidents that go with it and that we must either approve or disapprove the plan which applicants propose. And obviously this must be so, for it would be trifling with the situation to permit applicants to embark upon this plan only to have it shattered in some subsequent proceeding.

It is vital, therefore, to understand the plan and all that it involves. Let us analyze it:

1. *Financial risk.*—The station is to be built by the Cleveland Union Terminals Company. This company was organized by the Van Sweringen interests, but a first step in the plan will be the purchase of all its stock by the three applicant railroad companies. They will also guarantee its bonds, by the sale of which all necessary funds will be procured. At the outset, therefore, the railroads will assume the complete financial responsibility and risk of the undertaking. From that moment it will cease to be a Van Sweringen enterprise and will become a railroad, and chiefly a New York Central, enterprise.

2. *The traction terminal.*—The station and its approaches are not to be used by the railroads alone, but in part by local rapid-transit lines. The portion so used is to be known as the "traction terminal." In our previous report we stated that \$14,038,523 was the cost allotted to this "traction terminal," but we went on to say:

In this allocation no portion of the cost of the land within the station area has been included, upon the theory that the acquisition of all this land would be necessary under the terms of the ordinance, even if the interurbans were not admitted to the station. It appears, however, that the ordinance was drafted in contemplation of such admission, and that if a steam-railroad terminal alone had been planned the need for much of the highest-priced land would not have arisen.

This statement has not been challenged.

The "traction terminal" is to be leased to the Cleveland Traction Terminals Company, another corporation organized by the Van Sweringen interests. This company owns not a dollar's worth of property; it is as yet wholly on paper. Apparently it proposes to build certain rapid-transit lines feeding into the "traction terminal" and extending out to suburban districts where connection may be made with interurban lines already in existence. It is said that these rapid-transit lines will cost about \$25,000,000, that the money can be procured, and that they will be constructed within the five years necessary to complete the terminal. But no franchise rights for their construction seem to have been secured, just where they will be



built is not disclosed, and the estimate of \$25,000,000 cost is not supported by any engineering report of record.

Apparently these lines are to operate at high speed over private right of way with fixed stations and without grade crossings. Elaborate estimates were submitted of the traffic which they are likely to secure, in part at the expense of the street-railway lines because of superior service, and in part from connecting interurbans. The conclusion is drawn that the "net earnings, applicable to rental, depreciation, etc., after paying operating expenses and taxes, as well as interest charges at 7 per cent, should show \$250,000 in the first few years under unfavorable conditions, and \$500,000 with better conditions," with increasing earnings thereafter. But any such estimate of the future earnings of a hypothetical rapid-transit system, in view of the unknown factors, such as cost, density of traffic, relation of fares to the fares of competing lines, transfer privileges, etc., is speculative in the highest degree. The same engineer who prepared these estimates made this statement in his "Report on a Rapid Transit System for Cleveland," filed as one of the exhibits:

The difficulty which is most apparent in the whole problem is the question of cost. On account of the radiating character of the city's thoroughfares and the large number of directions in which the residential sections can, and probably will extend, a system of rapid transit to serve the city best must give the greatest possible diversity of routes. Financial considerations, however, command that the mileage to be built should be reduced to the minimum consistent with adequate service. The concentration of existing traffic upon a few rapid transit lines and the encouragement of further collecting travel to these trunk or main lines can only be justified *by combining with such an effort an adequate and complete distribution by transfer over surface car lines. This means the necessity for a unification of any rapid transit lines which may be built with the existing street car system.* [Italics mine.]

The initial rental which this Cleveland Traction Terminals Company, with prospective property only, is to pay for the use of the "traction terminal" is \$850,000 per year, an amount based on 6 per cent of the \$14,038,523 which, as above stated, by no means represents the entire cost of the "traction terminal." It is said that a bond has been or will be furnished to cover the first year's rental, but no further security is suggested. That there is doubt about the ability to pay this rental unaided is shown by the provisions with respect to the so-called concession area, which is made a part of the "traction terminal." This area includes all the space within the station which is available for use by stores, restaurants, parcel room, and the like. All income from this concession area is to go to the Traction Terminals Company, with the proviso that the latter's rental shall be increased from \$850,000 to \$1,000,000 whenever this annual income shall equal \$800,000. It is further provided that if, at the end of 21 years the annual income shall exceed \$1,500,000,

the rental shall be \$1,250,000 plus one-fourth of such excess over \$1,500,000.

A witness for applicants testified that in the first year after the station is opened the income from concessions should amount to \$836,363. If this proves to be the case, the actual rental payable from its rapid-transit operations by the Traction Terminals Company for the use of the "traction terminal" in that year will be but \$163,637, and if the concession income should thereafter grow to more than \$1,000,000, the use of the "traction terminal" would not only wholly cease to be a drain upon the rapid-transit operations of the Traction Terminals Company but would actually be a source of profit, without check of any sort until after the expiration of 21 years, and then with but slight limitation.

The evidence is by no means convincing that the concession area will produce the income estimated, but if it should, the results shown above will accrue to the benefit and advantage of the Traction Terminals Company notwithstanding the fact that the concessions will derive their value in large part from steam-railroad occupancy of the station. It is argued that the rapid-transit lines will carry more passengers than the steam lines, but there is no proposal to divide the income in proportion to passengers carried. The Traction Terminals Company is to have it all. Moreover the passenger traffic which will be handled by the steam roads is practically a known quantity, while the rapid-transit traffic is wholly speculative, and much of the concession space in the station would not be available but for steam-railroad occupancy.

3. *Air rights.*—Much of the land which will be needed for the station and its approaches has already been acquired by the Van Sweringens. It seems that several years ago they began the development of certain suburban residential areas and became impressed with the need for rapid-transit connection between this suburban property and the business districts. Realizing the importance of a suitable terminal in the heart of the city, if such lines were to be built, they began to buy lands near the Public Square. From a project for a traction terminal alone, the plan gradually developed into a scheme for a stub-end passenger station in conjunction with the Baltimore & Ohio and certain other railroad lines, and finally into the present plan for a through station accommodating the New York Central system and the Nickel Plate in combination with a "traction terminal." In the meantime the evidence indicates that land at the Public Square has been increasing very slowly in value, since the business center of the city has been moving eastward beyond the Square. As applicants state on brief:

The strip of Cleveland lying between the River and Ontario Street (which runs north and south through the Public Square) has grown relatively less

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important year by year as respects both value and use, and the construction of a terminal station in the westerly portion of the Public Square in fact brings back into appropriate and intensive use a great body of land once of central importance but now facing, but not fully participating in the advantages which the growth of the city and the increase of its business has brought to the property east of Ontario Street.

Under the plan which we are asked to approve, all the land necessary for the station and the west approach will be conveyed to the Union Terminals Company at cost plus carrying charges, subject to the reservation of supergrade or air rights over 6.58 acres of the most valuable land in the station area. In the case of the east approach, the Union Terminals Company will be granted a perpetual easement for the consideration of \$1. The air rights and the east-approach land are to be the property of the Cleveland Terminals Building Company, a further corporation organized by the Van Sweringen interests. The net result of the transaction will, therefore, be that these interests will recoup all that they have paid out for terminal lands except in the east approach, and will retain the latter lands, subject to the easement, and also the air rights over the best portion of the station area.

The upshot is that the Van Sweringens are trading an easement over the east approach for the air rights over the 6.58 acres at the square. Is this a fair exchange? It appears that the cost of these 6.58 acres will be about \$7,460,000, and that the station at this point will be wholly below the street level, except for certain spaces at such level of minor extent reserved either wholly or jointly for railroad use. There is no reason to believe that the construction of the station will in any substantial respect impair the value of the land for building supergrade. On the contrary, it is perfectly clear that the presence of the station will add greatly to this value.

As above stated, the evidence is that this real estate is now gradually becoming stagnant; but the terminal plan will make the square the focusing point not only of street-railway traffic but of steam-railroad and rapid-transit passenger traffic as well. No location so circumstanced can fail of great and constantly growing value. Some evidence was offered that railroad construction subgrade will cause an extra expense of \$2,701,000 in the erection of buildings supergrade, but study of this evidence shows it to be wholly misleading. It is merely an estimate that the cost of foundations, entrances, etc., would be apportioned \$2,701,000 to the buildings and \$471,000 to the terminal, and in no respect is it an estimate of the excess of this foundation cost over the necessary expenditure for excavation and foundations in the absence of railroad construction. It is also significant that the New York Central estimates that a net annual income of \$300,000, or 6 per cent upon \$5,000,000 will be realized from

development of the air rights over station land which the Union Terminals Company will own in fee, although these air rights will be far less valuable, relatively, for building purposes than those reserved by the Van Sweringen interests.

Turning to the easement over the east approach, the maximum value estimated for the entire fee of this land, including buildings thereon, is but \$3,326,818. While it is said that the railroad use of these lands will make supergrade construction impracticable on 21 of the 28 acres, such construction will be entirely feasible on the remaining 7 acres; which happen to be much the most valuable portion. It is impossible to escape the conclusion that the exchange of this easement for the air rights over the 6.58 acres of the station area will be greatly to the advantage of the Van Sweringen interests, and that this advantage will continually increase.

4. *Summary of the plan.*—Summarizing the situation, the record shows that the applicant railroad companies propose to assume the complete financial responsibility and risk attaching to the construction of a "traction terminal" costing considerably more than \$15,000,000, to be used by a local rapid-transit system which is as yet almost wholly on paper, and not even very definitely on paper; that these railroad companies propose to turn over gratis to this rapid-transit system certain concession values created in large part by steam-railroad occupancy of the station; that they propose, further, to permit air rights over the most valuable portions of the station area to be retained by private interests in exchange for an easement over the east approach which is of considerably less value; and that these private interests are the same interests who will profit from railroad financial support and contribution to the rapid-transit system, both indirectly as owners of certain suburban property and directly as owners of the rapid-transit lines.

I am unable to agree with the majority that this plan for the construction, operation, and financing of a new passenger station and route through the city is consistent with the public interest. Applicants urge that great weight should be given to the numerous expressions of approval of the station project by organizations and individuals of Cleveland and vicinity, which were made a part of the record. It is not unnatural that there should be a disposition locally to favor a plan under which great railroad companies will assume the responsibility and risk of financing and contributing income to a costly terminal for local rapid-transit lines which are as yet unborn; but the question is whether such a plan is consistent with the larger public interest which we are called upon to consider.

I have no hesitation in reaching the conclusion that the railroad companies ought not at any time, and certainly not in these times,

to be permitted to assume financial responsibility or risk in connection with local rapid-transit systems which they do not control, and *a fortiori* they ought not to be permitted to do so when the rapid-transit system is not in being and is without known earning power, or to make a direct contribution of income to this rapid-transit system as is proposed in this case. If the earning power of the projected rapid-transit lines and their ability to support a terminal costing considerably more than \$15,000,000 can be demonstrated, Cleveland is large enough and prosperous enough to finance such a development without railroad backing, just as has been done in Boston and New York. And it is entirely possible to do this without divorcing the "traction terminal" from the union-station plan.

Nor do I believe, particularly in view of the present tendency of real-estate values at the Public Square in the absence of terminal development and in view of the vital interest which the Van Sweringens have in the building of the terminal at that point and in the promotion of rapid-transit construction, that any necessity exists for the trade with respect to air rights which is now proposed. Either the railroad companies should hold these air rights themselves and realize the profit which they will undoubtedly afford, or take only an easement in the property involved in the construction of their underground station and its approaches, and pay for such easement a price consistent with the values permitted to remain in other hands through the reservation of the air rights.

Up to this point I have discussed the plan proposed without questioning whether the Public Square is a better location for the new passenger station than the site on the lake front at the Mall which was formerly contemplated. The majority say that the Mall plan is not before us for approval or disapproval, and that the question presented is whether the plan for the construction of the "station on the square" is a proper one from the standpoint of the public interest. But surely we could not make the latter finding if, after weighing the advantages and disadvantages disclosed of record, we should reach the conclusion that the public interest would clearly be better served by the construction of the station at the Mall.

As stated in our previous report, the New York Central has two routes through Cleveland, one along the lake front and the other, known as the Short Line, branching off from the main line at Collinwood on the east and joining it again near Rockport on the west, a distance of about 20 miles. The latter is a double-track line with five tunnels and a viaduct crossing the Cuyahoga River. The lake-front line has, in general, four main tracks, but the river is crossed on a single-track drawbridge of such low elevation that it must be opened for nearly all boats, and in a portion of the congested industrial section east of the river there are but three tracks. Just west



of the bridge the Pennsylvania has extensive ore docks, and its ore trains use the bridge and cross the tracks of the Central at grade just east of the present station. Through freight is now routed almost wholly over the Short Line, and the line along the lake is largely confined to passenger traffic and local freight operations.

The New York Central's advocacy of the Public Square plan is built almost wholly around the thought that great advantages will flow from the construction of a new route through the heart of the city which will make possible the entire elimination of passenger traffic from the lake-front line. Along the latter there are a great many industries with sidetrack connections, and the claim is that in times of heavy traffic the movement of passenger trains interferes to such an extent with switching operations that congestion and freight blockades are bound to ensue. Cleveland is pictured as the neck of the bottle in the New York Central system and the lake-front line as the critical point in the neck. If passenger traffic can be removed from this line, it is asserted that this congestion, serious now and likely to be even more serious in the future, will be relieved and industrial development along the lake front promoted. It is also asserted that it will be possible to route through freight west-bound over the lake-front line and eastbound over the Short Line and thus to secure substantial economies in operation.

Coming now to the question of cost: The total estimated capital expenditures at present costs in connection with the Public Square project, as shown by a statement filed by the New York Central subsequent to the rehearing, will be \$60,891,735. The similar expenditures in connection with a station on the Mall, as shown in the same statement, will be \$36,779,218, a difference of \$24,112,517. Examination shows, however, that the estimate of \$36,779,218 includes, in addition to station construction, the expenditures which will be required if (1) a four-track bridge at a higher elevation is substituted for the present single-track drawbridge over the Cuyahoga River; (2) the Pennsylvania grade crossing east of the present station is eliminated; (3) four tracks are laid on the lake front between East Sixty-third Street and East Thirty-third Street, where there are now but three tracks; and (4) the Short Line is four-tracked its entire distance. If 17 miles only of the Short Line are four-tracked, omitting the expensive work in connection with the tunnels and viaduct, the expenditures under the Mall plan would fall to \$29,784,218.

Stating the situation in another way, these estimates mean that by the expenditure of \$36,779,218 it would be possible to build the station at the Mall and also secure eight main tracks through the city of Cleveland from Collinwood on the east to Rockport on the west. The question arises whether this would not relieve congestion quite as

effectively and make possible as many economies as the construction of the new passenger route through the Public Square. I do not find in the record any adequate discussion of this question by the New York Central experts. Nevertheless there is evidence, I believe, from which the answer may be deduced.

The record shows that Collinwood yard, which has heretofore handled the local Cleveland business and the through traffic, has now become utterly inadequate and is a potent cause of much of the congestion which has occurred at Cleveland in times of heavy traffic, and that the directors of the New York Central have authorized the purchase of land and the construction of a large outlying yard west of the city for the purpose of relieving this situation.

It shows that the present station tracks on the lake front are insufficient in length and number and the approach tracks inadequate, so that at times passenger trains are required to wait outside the station for as much as 30 minutes after arriving within the yard limits. This situation would be entirely relieved by the construction of the station at the Mall.

It shows that the present single-track drawbridge and its frequent openings, combined with the Pennsylvania grade crossing just east of the present station and the Big Four grade crossing just west, are likewise a very important source of congestion, particularly in view of the close proximity of the station to the bridge. This situation would also be wholly relieved by the carrying out of the Mall plan.

It shows that the existence of only three tracks for a considerable distance on the lake-front line east of the river seriously hampers switching operations. Under the Mall plan, as above stated, four tracks are proposed at this point in place of the present three.

It further shows that there are now 18 passenger movements each way over the lake-front line every 24 hours, and that it is proposed under the Public Square plan to substitute 26 or 27 slower moving freight trains one way. Nevertheless, the opinion is expressed that the result will be to so relieve congestion that it will not be necessary to do away with the single-track low-elevation bridge, or apparently the Pennsylvania grade crossing, for at least 10 and possibly 15 years.

Upon the evidence before us, therefore, I find it difficult to reach the conclusion that the new passenger route of the Public Square plan will be any more effectual in the relief of railroad congestion than the eight main tracks through Cleveland and the elimination of present obstacles to the free movement of traffic which would result at much smaller expenditure of capital from the adoption of the Mall plan. The fact that an alternative plan with such possibilities is open merely strengthens the conclusion which I have already expressed that the Public Square plan, as it has been presented to us,



is not consistent with the public interest and ought not to receive our approval.

I have refrained from commenting upon the relative merits of an underground station with tracks laid on a curve as contrasted with an open-air station with tangent tracks, and upon the street congestion which is likely to ensue at the Public Square if a station be constructed at that point, for these, although important, are matters of local significance, and if the people of Cleveland generally deem them of controlling importance they have not availed themselves of the opportunity to make their views known of record.

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*Certificate and Order.*

A rehearing in this proceeding and investigation of the matters and things involved therein having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified*, That the present and future public convenience and necessity require, and will require, the construction and operation of a terminal station and a line of railroad constituting the approaches thereto, in the city of Cleveland, Ohio, as described in the applications and the report aforesaid.

*It is ordered*, That the acquisition by the New York Central Railroad Company, the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and the New York, Chicago & St. Louis Railroad Company of control of the Cleveland Union Terminals Company by purchase of capital stock, as proposed in the applications and described in the report aforesaid, be, and it is hereby, approved and authorized.

*It is further ordered*, That said New York Central Railroad Company, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and New York, Chicago & St. Louis Railroad Company be, and they are hereby, authorized to construct and operate said line of railroad and terminal station, by and through control of, and contract with, the Cleveland Union Terminals Company, in the manner described in said applications and report; *provided, however*, that nothing in this authorization shall be taken as a finding, either express or implied, as to the amount or character of any securities to be issued or in respect of which any liability or obligation is to be assumed, in connection with the carrying out of the provisions of said contract.

*It is further ordered*, That all other matters involved in said applications be, and they are hereby, dismissed.

## FINANCE DOCKET No. 1613.

## IN THE MATTER OF THE APPLICATION OF THE MANCHESTER &amp; ONEIDA RAILWAY COMPANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE BONDS.

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*Submitted November 30, 1921. Decided December 7, 1921.*

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Authority granted to issue not exceeding \$65,000 of new first-mortgage 6 per cent bonds, to be exchanged, par for par, for a like aggregate amount of first-mortgage 5 per cent bonds now outstanding.

*Carr & Carr and Geo. W. Dunham for applicant.*

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Manchester & Oneida Railway Company, a common carrier by railroad engaged in interstate commerce, by original application and an amendment thereto, has duly applied for authority under section 20a of the interstate commerce act to issue, under date of March 1, 1921, \$65,000 of new first-mortgage 6 per cent bonds, to be exchanged for a like amount of its first-mortgage 5 per cent bonds which matured on that date. No objection has been made to the granting of the application.

The applicant, which was incorporated in 1901, owns and operates a line of railroad, approximately 8 miles long, extending from Oneida to Manchester, in Delaware County, Iowa. At Manchester it connects with the Illinois Central and at Oneida with the Chicago Great Western and Chicago, Milwaukee & St. Paul Railroads.

Under date of March 1, 1901, the applicant executed its first mortgage to H. C. Haeberle, trustee, authorizing the issue of \$100,000 of 5 per cent bonds. Of the bonds issued thereunder \$65,000 are now outstanding and past due, having matured on March 1, 1921. From its balance sheet as of August 31, 1921, it appears that applicant has not sufficient cash or other available funds with which to pay these bonds.

The mortgage under which the bonds were issued contains a provision whereby holders of four-fifths of the bonds outstanding may, for the purpose of preventing foreclosure and sale, direct the trustee in their behalf to acquiesce in the provisions of any plan of

reorganization involving the creation of a new lien superior to the lien of the existing mortgage. Acting under this provision the holders of \$62,000 of the outstanding bonds have directed the trustee to enter into an agreement with the applicant for the exchange of the outstanding bonds for a like amount of other bonds to be secured by a new first mortgage. This agreement has been executed and, under the provisions of the existing mortgage, is binding upon the holders of all outstanding bonds.

Pursuant to the agreement mentioned, the applicant proposes to make a new first mortgage, under date of March 1, 1921, to R. D. Graham, trustee, authorizing the issue of \$65,000 of 6 per cent bonds, maturing March 1, 1941, to issue these bonds and to deliver them to the trustee to be exchanged, par for par, for the outstanding bonds, which will then be surrendered to the applicant and canceled. When all the bonds have been so exchanged the old first mortgage will be canceled and discharged of record. A copy of the proposed new mortgage is attached to the application. On account of present financial conditions it has been found necessary to increase the rate of interest to 6 per cent.

The applicant's earnings for the last five years have not been sufficient to meet its fixed charges, which have been paid in part out of surplus, and, from a statement filed with the amendment to the application, it appears that earnings for the current year will not be sufficient to pay fixed charges. The applicant has, however, submitted evidence tending to show that it will be able to meet its fixed charges out of surplus until its earnings are sufficient for that purpose.

We find that the proposed issue of bonds by the applicant (a) is for lawful objects within its corporate purposes, which are necessary and appropriate for and consistent with the proper performance by the applicant of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Manchester & Oneida Railway Company be, and it is hereby, authorized to issue not exceeding \$65,000, principal amount, of new first-mortgage bonds under and pursuant to,  
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and to be secured by, a proposed new first mortgage, in the form submitted with the application, to be made by the applicant to R. D. Graham, trustee, under date of March 1, 1921; said bonds to bear interest at the rate of 6 per cent per annum, payable on March 1 in each year, and to mature March 1, 1941; said bonds to be exchanged, par for par, for \$65,000, principal amount, of first-mortgage 5 per cent bonds issued under and pursuant to, and secured by, the first mortgage, dated March 1, 1901, made by the applicant to H. C. Haeberle, trustee; said first-mortgage 5 per cent bonds received in exchange for the bonds herein authorized, to be canceled as and when they are delivered to the applicant, and when all the bonds have been exchanged as aforesaid and the 5 per cent bonds so canceled the said first mortgage securing said 5 per cent bonds to be canceled and discharged of record.

*It is further ordered*, That within 10 days after the execution and delivery of said proposed new first mortgage, the applicant shall file with this commission an authenticated copy thereof in the form in which said mortgage was executed.

*It is further ordered*, That, except as herein authorized to be delivered, said first-mortgage 6 per cent bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall report to this commission within 10 days thereafter, respectively, all pertinent facts relating to (1) the delivery of new first-mortgage 6 per cent bonds, (2) the cancellation of said first-mortgage 5 per cent bonds received in exchange therefor, and (3) the cancellation and discharge of record of said first mortgage dated March 1, 1901; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation on the part of the United States as to any of said bonds, or interest thereon.

FINANCE DOCKET No. 1745.

IN THE MATTER OF THE APPLICATION OF THE ALABAMA, TENNESSEE & NORTHERN RAILROAD CORPORATION FOR AUTHORITY TO ISSUE AND PLEDGE EQUIPMENT-TRUST NOTES AND MORTGAGE BONDS.

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*Submitted November 29, 1921. Decided December 8, 1921.*

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Authority granted (1) to issue \$100,000 of prior-lien mortgage 30-year 6 per cent gold bonds; (2) to issue \$372,000 of 6 per cent equipment-trust notes in connection with the lease of certain equipment; and (3) to pledge the aforesaid bonds and equipment-trust notes, together with \$100,000 of similar bonds, as security for a loan under section 210 of the transportation act, 1920, as amended.

*I. Howard Lehman* for applicant.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Alabama, Tennessee & Northern Railroad Corporation, a common carrier by railroad engaged in interstate commerce, has duly applied for authority (1) to issue a note or notes for \$399,000, bearing interest at the rate of 6 per cent per annum, to cover a loan of that amount from the United States under section 210 of the transportation act, 1920, as amended; (2) to issue \$100,000 of its prior-lien mortgage 30-year 6 per cent gold bonds, and to pledge them, together with \$100,000 of similar bonds now in the applicant's treasury, as security in part for the aforesaid loan from the United States; and (3) to issue \$372,000 of 6 per cent equipment-trust notes in connection with the lease of certain equipment and to pledge said notes also as security in part for the aforesaid loan from the United States; and for approval of the execution by it of an agreement for the lease of certain equipment which also provides for the issue of such notes.

Paragraph (f) of section 210 of the transportation act, 1920, as amended, provides that "a carrier may issue evidences of indebtedness to the United States pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification."

The applicant represents that in order properly to meet prospective requirements of the public, it is necessary that it procure 2 locomotives, 50 flat cars, and 250 gondola cars. Arrangements have been made by the applicant to procure this equipment, excepting the locomotives, under an agreement of lease dated November 16, 1921, with the Coal & Iron National Bank of the City of New York. By the terms of this agreement, a copy of which is filed with the application, the applicant will pay as rental the sum of \$372,000 in 30 semiannual installments of \$12,400, payable on June 1 and December 1 in each year from 1922 to 1936, inclusive. These installments are to be evidenced by equipment gold notes, each in the sum of \$12,400, payable to bearer, with interest at the rate of 6 per cent per annum. It is provided in the agreement of lease that the equipment notes shall be authenticated by the certificate of the Coal & Iron National Bank of the City of New York being indorsed upon each note. The applicant will have possession and use of the equipment; but the title will remain in the lessor for the benefit of the holders of the notes until all rental payments have been made and the title vested in the applicant by the payment of \$25 additional.

Under section 2 of article two of its prior-lien mortgage dated October 15, 1918, to the Metropolitan Trust Company of the City of New York and James F. McNamara, a copy of which is filed with the application, the applicant is entitled to have \$100,000 of bonds authenticated and delivered to it by the corporate trustee. These bonds will be dated as of October 15, 1918, bear interest at the rate of 6 per cent per annum, payable semiannually, and mature on the 1st day of July, 1948. The applicant now has in its treasury \$100,000 of the bonds covered by the mortgage described, which have heretofore been authenticated by the corporate trustee and delivered by it to the applicant.

By our certificate No. 120 in *Loan to Alabama, Tennessee & Northern R. R.*, 70 I. C. C., 611, we have authorized the making of a loan of \$399,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended, for the purpose of aiding the applicant in procuring the equipment to be covered by the lease and also two locomotives. As security the applicant is to pledge the \$100,000 of prior-lien mortgage bonds now in its treasury, together with the \$100,000 of prior-lien mortgage bonds proposed to be authenticated and delivered, and the \$372,000 of proposed equipment-trust notes.

We find that the proposed issue and pledge of prior-lien mortgage bonds and of equipment-trust notes by the applicant as aforesaid (a) are for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appro-



priate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Alabama, Tennessee & Northern Railroad Corporation be, and it is hereby, authorized to issue \$100,000, principal amount, of its prior-lien mortgage 30-year gold bonds under and pursuant to, and to be secured by, the prior-lien mortgage dated October 15, 1918, made by the applicant to the Metropolitan Trust Company of the City of New York and James F. McNamara; said bonds to be dated as of October 15, 1918, to bear interest at the rate of 6 per cent per annum, payable semiannually, and to mature July 1, 1948; said bonds to be pledged as hereinafter authorized.

*It is further ordered,* That the Alabama, Tennessee & Northern Railroad Corporation be, and it is hereby, authorized to issue 6 per cent equipment-trust notes in an aggregate face amount not exceeding \$372,000, consisting of 30 notes of the face amount of \$12,400 each, in connection with the lease of 50 flat cars and 250 gondola cars, as set forth in the application; said notes to be payable to bearer serially at intervals of six months from June 1, 1922, to December 1, 1936, inclusive, with interest at the rate of 6 per cent per annum, payable semiannually on June 1 and December 1 in each year to and including the respective dates of maturity; said notes to be issued under and pursuant to an agreement of lease dated November 16, 1921, between the applicant and the Coal & Iron National Bank of the City of New York, each note to be authenticated by the certificate of said bank indorsed thereon, as provided in said lease; said notes to be pledged as hereinafter authorized.

*It is further ordered,* That the Alabama, Tennessee & Northern Railroad Corporation be, and it is hereby, authorized to pledge with the Secretary of the Treasury as security for a loan from the United States under section 210 of the transportation act, 1920, as amended, the \$100,000, principal amount, of its prior-lien mortgage 30-year gold bonds hereinbefore authorized to be issued, and the \$100,000, principal amount, of such bonds now in the applicant's treasury, and



the \$372,000, aggregate face amount, of 6 per cent equipment-trust notes, the issue of which is hereinbefore authorized.

*It is further ordered,* That, except as herein authorized, said equipment-trust notes and said prior-lien mortgage bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered,* That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating (1) to the issue and pledge of said equipment-trust notes and said prior-lien mortgage bonds, and the release thereof from such pledge; and (2) to the payment or other satisfaction of said equipment-trust notes; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said equipment-trust notes or said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 929.

IN THE MATTER OF THE APPLICATION OF THE BOSTON  
& MAINE RAILROAD FOR A LOAN FROM THE UNITED  
STATES TO AID IN PROVIDING NEW EQUIPMENT  
AND OTHER ADDITIONS AND BETTERMENTS.

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*Submitted November 25, 1921. Decided December 10, 1921.*

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Upon supplemental application and consideration thereof, report of November 20, 1920, and certificate of November 24, 1920, 65 I. C. C., 402, so amended as to provide redistribution of the loan and an extension of the time within which the proceeds thereof shall have been expended.

*J. H. Hustis* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

On November 24, 1920, we issued to the Secretary of the Treasury our certificate No. 45, *Loan to Boston & Maine R. R.*, 65 I. C. C., 402, approving the making of a loan of \$6,656,479 by the United States to the Boston & Maine Railroad, hereinafter referred to as the applicant, for the purpose of enabling it to acquire certain new freight and switching locomotives and to make certain additions and betterments to existing equipment and to way and structures. One of the conditions of the loan was that the proceeds thereof applicable to additions and betterments should be expended or definitely obligated on or before January 1, 1922.

On November 25, 1921, the applicant applied for authority to divert the unexpended or unobligated balance of the loan to items of equipment and additions and betterments other than those to which the loan was dedicated; and also for an extension of one year of the time within which the proceeds of the loan for additions and betterments shall have been expended or definitely obligated.

The following comparative table shows the disposition of the loan approved by us and the changes therein now proposed by the applicant:

70 I. C. C.

Purposes.	As approved.			As proposed.		
	Units.	Unit cost.	Estimated cost.	Units.	Unit cost.	Estimated cost.
<b>New equipment:</b>						
Santa Fe freight locomotives.....	10	\$80,000	\$800,000	20	\$42,000	\$840,000
0-8-0 switching locomotives.....	25	57,000	1,425,000	2	79,000	158,000
0-8-8-0 Mallet switching locomotives..	2	100,000	200,000	43	27,000	1,161,000
Steel passenger coaches.....				12	26,850	322,200
Steel smoking cars.....				5	24,000	120,000
Steel baggage and smoking cars.....				4	21,000	84,000
Steel baggage and mail cars.....				25	14,000	350,000
Milk cars, passenger equipped.....						
<b>Total new equipment.....</b>			<b>2,425,000</b>			<b>3,085,200</b>
<b>Amount of loan.....</b>			<b>1,212,500</b>			<b>1,212,500</b>
<b>Financed by applicant.....</b>			<b>1,212,500</b>			<b>1,822,700</b>
<b>Additions and betterments:</b>						
Roadway protection.....			222,387			233,909
Bridges, trestles, and culverts.....			1,280,895			1,631,003
Crossing protection.....			17,213			17,213
Signals and interlockers.....			11,678			15,920
Water stations.....			12,286			14,377
Rails.....			119,000			155,000
Power distribution systems.....			6,000			2,964
Yard tracks and sidings.....			391,123			360,067
Freight and passenger stations.....			138,673			153,007
Shops, enginehouses, etc.....			1,856,085			1,811,740
Grain elevators.....			1,008			607
<b>Total roadway items.....</b>			<b>4,056,348</b>			<b>4,401,407</b>
<b>Existing freight-train equipment.....</b>			<b>1,387,631</b>			<b>1,387,631</b>
<b>Total additions and betterments..</b>			<b>5,443,979</b>			<b>5,789,038</b>
<b>Amount of loan.....</b>			<b>5,443,979</b>			<b>5,443,979</b>
<b>Financed by applicant.....</b>						<b>845,059</b>

<sup>1</sup> Approximately 60 per cent of estimated cost.

The application sets forth in detail the changes in traffic conditions and in conditions generally which necessitate, in the opinion of the applicant, the proposed diversion of the loan and the extension of the time within which the proceeds thereof shall have been expended.

Adhering to the principles announced in our circular of June 7, 1920, for apportioning the revolving fund created by section 210 of the transportation act, we have not heretofore approved loans for passenger-train equipment except in a few instances where it was shown that such equipment would either be used both in freight-train and passenger-train service or would release an equal number of units exclusively for freight-train service. We now have before us no pending applications for loans applicable to equipment, and as the time within which applications for loans under section 210 may be filed is drawing to a close, we believe our action in approving the diversion of the proceeds of this loan to passenger-train equipment will in no wise be prejudicial to the transportation needs of the public as expressed by its demand for freight service.

After investigation, we find that the granting of the application for diversion of the proceeds of the loan, for the purposes and in the amounts hereinabove set forth, and for extension of the time within

which the proceeds of the loan shall have been expended or definitely obligated, to January 1, 1923, is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant, and character and value of the security pledged, afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

An appropriate amended certificate will be issued.

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*Amendment to Certificate No. 45 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 45, of November 24, 1920, to the Secretary of the Treasury, approving a loan of \$6,656,479 by the United States to the Boston & Maine Railroad, hereinafter referred to as the applicant, by changing subparagraph (d) of paragraph 5 thereof to read as follows:

(d) The applicant has agreed in an instrument in writing, dated the 23d day of November, 1920, as supplemented the 1st day of December, 1921, and filed with the Interstate Commerce Commission, to the following conditions: (1) The expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (2) the applicant shall furnish the commission on or about July 1, 1921, January 1 and July 1, 1922, and January 1, 1923, a detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with this loan for said purposes. The loan for additions and betterments shall have been expended or definitely obligated for the purposes for which loaned, or shall be repaid to the United States, on or before January 1, 1923.

Done at Washington, D. C., this 19th day of December, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1108.

IN THE MATTER OF THE APPLICATION OF THE PITTSBURGH & WEST VIRGINIA RAILWAY COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK AND TO ASSUME LIABILITY FOR WEST SIDE BELT RAILROAD COMPANY SECURITIES.

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*Submitted November 2, 1921. Decided December 10, 1921.*

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Application of the Pittsburgh & West Virginia Railway Company to issue capital stock and to assume obligation and liability in respect of certain securities in connection with the purchase by applicant of the property and franchises of the West Side Belt Railroad Company denied, upon the ground that said issue and assumption are not for a lawful object, since applicant has not obtained authority for the acquisition under section 5 of the interstate commerce act.

*Arthur H. Van Brunt* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Pittsburgh & West Virginia Railway Company, a common carrier by railroad engaged in interstate commerce, has applied for authority under section 20a of the interstate commerce act to issue \$7,400,000 of capital stock and to assume obligation and liability in respect of certain securities of the West Side Belt Railroad Company, hereinafter called the Belt Company, the stock to be issued and the obligation and liability assumed in connection with the acquisition of the property, franchises, rights, and credits of the Belt Company. The Public Utilities Commission of Ohio has filed an answer asking for dismissal of the application on the ground that we are without jurisdiction. We are of the opinion that we have jurisdiction.

Applicant owns all of the stock of the Belt Company and has been and is now operating the latter's road jointly with its own. An agreement between the companies, dated September 1, 1920, a copy of which is filed with the application, provides that applicant shall purchase and possess all of the franchises, corporate property, rights, and credits of the Belt Company, and in payment therefor deliver to the Belt Company \$3,000,000 of applicant's 6 per cent preferred

stock and \$4,400,000 of its common stock and assume the contingent liabilities of the Belt Company and all of its indebtedness which remains unpaid at the close of the transaction. The stock so delivered to the Belt Company is to be returned by it to applicant in full payment of indebtedness approximating \$6,333,000 and in exchange for the stock of the Belt Company. Thereafter the corporate existence of the latter is to be terminated.

In *Public-Convenience Application of Pittsburgh & W. Va. Ry.*, 67 I. C. C., 786, applicant asked for a certificate, under paragraph (18) of section 1 of the interstate commerce act, that public convenience and necessity require the acquisition and operation by it of the line of railroad now owned and operated by the Belt Company; but we dismissed the proceeding upon the ground that the proposals did not fall within the prohibition of that paragraph. Applicant has not sought approval or authority for the acquisition under any other provision of the act.

Under section 20a of the interstate commerce act we may, by order, authorize the issue of securities or the assumption of obligation or liability with respect to securities only if we find that such issue or assumption—

(a) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

At the outset, therefore, we must in the instant case find, as a prerequisite to the granting of the authority sought by applicant, that the proposed issue or assumption “is for some lawful object within its corporate purposes.”

Paragraph (2) of section 5 of the interstate commerce act is as follows:

(2) Whenever the Commission is of opinion, after hearing, upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this Act, that the acquisition, to the extent indicated by the Commission, by one of such carriers of the control of any other such carrier or carriers either under a lease or by the purchase of stock or *in any other manner not involving the consolidation of such carriers into a single system for ownership and operation*, will be in the public interest, the Commission shall have authority to approve and authorize such acquisition under such rules and regulations and for such consideration and on such terms and conditions as shall be found by the Commission to be just and reasonable in the premises. [Italics ours.]

Paragraphs (4) and (5) of the same section provide that the commission “shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United

States into a limited number of systems," and paragraph (6) is in part as follows:

(6) It shall be lawful for two or more carriers by railroad, subject to this Act, to consolidate their properties or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the Commission.

The provisions of paragraph (8) of section 5 are these:

(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the "antitrust laws," as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provision of this section.

In the instant case it appears that the purchase by applicant and the sale by the Belt Company of the franchises and property of the latter are within the corporate powers of both companies and may lawfully be accomplished under the laws of the Commonwealth of Pennsylvania. Nor is the acquisition within the prohibition of the "antitrust laws," for the two carriers do not compete, are connecting lines, and for some time have been under common control and management. The sole question, so far as this phase of the matter is concerned, is whether the purchase and sale may lawfully be made without authority or approval from us under the provisions of section 5.

Paragraph (6) of section 5 uses the word "consolidate." Technically, a consolidation is sometimes defined as a union of companies where a new corporation is created to take over the powers and property of the consolidating corporations. We are of the opinion, however, that the word "consolidate" is not used in paragraph (6) in a narrow sense, but that the language of the paragraph is broad enough to cover any form of union under which "properties theretofore in separate ownership, management, and operation" pass into the possession of a single corporation for ownership, management, and operation. This matter is not of immediate importance, for if the proposed purchase falls outside the terms of paragraph (6), it is certainly covered by paragraph (2) which deals with the acquisition by one carrier of the control of another "either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation." The question has a prospective importance, however, if we



decide that authorization of the purchase is necessary under section 5, for no such authority may be granted under paragraph (6) until we have adopted a plan of consolidation under paragraphs (4) and (5), while there is no similar limitation upon action under paragraph (2).

But applicant has not sought authority for the purchase and sale under section 5, and the immediate question, as aforesaid, is whether the transaction can lawfully be consummated without such authorization. Two constructions of the above-quoted provisions of that section are possible. One interpretation is that they represent an attempt on the part of Congress to place in our hands complete control over the union of carriers engaged in interstate commerce; the other is that they are merely a means of affording relief from the operation of the "antitrust laws," or other restraining State or Federal statutes.

Section 5 is a unit, its separately numbered paragraphs dealing with analogous matters. Paragraph (1), which has to do with the pooling of freights and the division of earnings, begins as follows:

(1) That, except upon specific approval by order of the Commission as in this section provided, and except as provided in paragraph (16) of section 1 of this Act, it shall be unlawful for any common carrier subject to this Act to enter into any contract, \* \* \*.

It is thus definitely and unmistakably provided that an agreement for the pooling of freights or the division of earnings shall be unlawful unless and until it receives our specific approval. The corresponding language of paragraph (2), which deals with union of carriers not involving consolidation into a single system for ownership, management, and operation, is not so easily construed. It contains no specific prohibition, but provides that whenever we are of opinion that it will be in the public interest, we shall have authority by order to approve and authorize such union. The language of paragraph (6) is similar, for while it specifies the conditions under which consolidations "shall be lawful," it does not in terms state the conditions under which they shall be unlawful.

The provisions in question were made a part of the interstate commerce act by the transportation act, 1920. In case of ambiguity it is permissible, in interpreting a statute, to refer to the reports of Congress. The final draft of the transportation act, 1920, was the result of a conference between the Senate and House committees. In the report of the House conferees, February 8, 1920, it was said:

The House bill permitted consolidations, mergers, and pooling of earnings or facilities, subject to the approval of the commission, and for the purpose of carrying out any order of the commission approving a consolidation, merger, or pooling declared that the carriers affected by such order should be re-

lieved from the operation of the antitrust and other restrictive or prohibitory laws. The Senate amendment in section 9 declared that it is the policy of the United States to require consolidation of all the railroads of the country into not less than 20 nor more than 35 separate systems, and provided (sec. 10) that the transportation board should prepare a plan for such consolidation. Voluntary consolidations were provided for within the period of seven years after the passage of the act, but at the end of that period the transportation board was given power to compel such consolidations. The Senate receded from the provisions for compulsory consolidation and agreed to the House provisions with respect to pooling, as revised by the conferees. The House agreed to the Senate provisions for voluntary consolidations as revised by the conferees in section 407 of the conference report. Under these provisions the commission is authorized to permit the acquisition by one carrier of the control of another by lease or purchase of stock. The commission is directed to prepare a plan of consolidation, preserving existing routes and competition so far as possible. Before adopting such plan the commission is required to give a hearing and notify the governor of each State affected. *Consolidations or mergers in harmony with the commission's plan are permitted subject to the approval of the commission and subject to the requirement that the capital of the consolidated corporation shall not exceed the value of the consolidated properties as determined by the commission.* An order of the commission approving a specified consolidation may be carried out notwithstanding any State or Federal restraining or prohibitory law to the contrary. [Italics ours.]

In making the report for the Senate conferees, Senator Cummins said, on February 23, 1920:

In so far as the Senate bill contemplated compulsory consolidations, the Senate conferees have found it necessary to recede, but the real principle embodied in the Senate bill has been preserved. The substitute found in the conference report upon this subject provides that the commission shall, as soon as practicable, adopt and publish a plan for the consolidation of our railways into a limited number of systems, with the same requirements as to competitive service and the observance of existing routes of commerce as were laid down in the Senate bill. *With the approval of the commission, guided solely by the public interest, consolidations are to be permitted, but they are to be voluntary and must be consistent with and in furtherance of the plan adopted by the commission.* Furthermore, in whatever consolidations may take place, the properties consolidated must be treated as of their true value, and the commission is charged with the duty of determining this value under the valuation act of 1913. [Italics ours.]

Still more definite were the remarks of Chairman Esch, of the House committee, on February 21, 1920:

No consolidation can hereafter be made unless it complies with the plan as prescribed by the commission. We have safeguarded this matter of consolidation in every possible way.

Aside from this extraneous evidence, the intent of the provisions may, we think, be determined by reference to internal evidence. Paragraphs (4) and (5) provide most elaborately for the preparation and adoption by the commission of a "plan for the consolidation

of the railway properties of the continental United States into a limited number of systems." In the division into such systems "competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained." It is further provided that the "several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties." When we have agreed upon a tentative plan of this character, it must be given "due publicity," including notice to the governor of each State, and all persons must be heard who may file or present objections. Thereafter, and not until then, the final plan may be adopted and published.

Obviously, the preparation and adoption of a plan of consolidation under such instructions from Congress require deliberate and careful consideration of every railway property of the "continental United States" from competitive, financial, commercial, and other points of view, so that each such property may with nicety be fitted into its appropriate place in the final scheme. Obviously, also, many consolidations which are not barred by the restraining provisions of the "antitrust laws" or other Federal or State statutes may be wholly inconsistent with the plan and destructive of its purpose. Yet, if consolidations of this kind can now be lawfully effected without our approval, the conclusion is inevitable that the carriers may ignore section 5 with impunity under similar circumstances, after the plan has finally been adopted, and thus bring quick disaster to its entire structure. It is impossible to believe that it was the intent of Congress to prescribe with such care the method by which this elaborate and comprehensive program shall be formulated and the principles by which it shall be governed, and at the same time leave open a door by which at any time it may be wrecked.

And the same may be said of the intent of paragraph (2), for if carriers are permitted to gain control of one another without our approval by means falling short of consolidation and in a manner which is out of harmony with the ultimate plan of consolidation, to that extent the difficulties in the way of the consummation of the plan will be increased and the probability will be diminished that it may ultimately be accomplished through voluntary action of the carriers.

Beyond question, in the development of the transportation act, 1920, as a constructive measure for the solution of the railroad prob-

lem, great importance was attached by Congress to the ultimate consolidation of the carriers into a limited number of great systems, well balanced financially and of similar earning power, but competing with each other and maintaining the existing channels of trade and commerce. In our opinion it was the intent of Congress that complete control over the situation should be in our hands, so that the working out of this constructive policy might be safeguarded in every possible way, and so that consolidations or other union of interests might not be effected without our consent.

Nor is the language of section 5 inconsistent with this conclusion. In *Lewis's Su. herland on Statutory Construction* it is said, at pages 1149-1150:

A direction contained in a statute, though couched in merely permissive language, will not be construed as leaving compliance optional, when the good sense of the entire enactment requires its provisions to be deemed compulsory.

But it is unnecessary to rely upon this principle of construction, for when, in paragraph (6), it is provided that "it shall be lawful" to consolidate under certain conditions, this is but another way of saying that consolidations in disregard of those conditions shall be unlawful. And in like manner, when it is provided in paragraph (2) that we may authorize the acquisition by one carrier of control of another in any manner falling short of consolidation, whenever we are of opinion that such acquisition "will be in the public interest," this is equivalent to saying that authority for the acquisition shall not exist under other conditions.

If it had been intended that these provisions of section 5 should merely afford a means of escaping from the restraints of the "anti-trust laws" and other State or Federal statutes, much simpler machinery would have been devised for accomplishing the purpose. The "plan of consolidation" is incompatible with such an interpretation of the section and embodies a policy of far greater breadth and vision.

We conclude and find, therefore, that the proposed issue of stock and the proposed assumption of obligation and liability are for an object, namely, the purchase by applicant and the sale by the Belt Company of the property and franchises of the latter, which can not lawfully be accomplished without our authority under the provisions of section 5 of the interstate commerce act. Until such authority is secured the application must be denied. This conclusion makes it unnecessary to consider in other respects the propriety of what is proposed.

An appropriate order will be entered.

COMMISSIONER POTTER dissents.

**ORDER.**

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the said application be, and it is hereby, denied.  
70 I. C. C.

## FINANCE DOCKET No. 1467.

## IN THE MATTER OF THE APPLICATION OF THE CHAFFEE RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted November 17, 1921. Decided December 10, 1921.*

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Certificate issued authorizing the Chaffee Railroad Company to operate a line of railroad in Maryland and West Virginia.

*Albert A. Daub, Francis B. James, and Ewing H. Scott for applicant and certain interveners.*

*James T. Carter for protestant.*

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chaffee Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, hereinafter called the Chaffee, on June 3, 1921, filed an application pursuant to paragraph (18) of section 1 of the interstate commerce act, for a certificate of public convenience and necessity authorizing it to operate an existing line of railroad extending from Vindex, Md., to a connection with the Western Maryland Railway at Chaffee, W. Va., a distance of approximately 3.5 miles. The Western Maryland Railway Company filed a protest against the granting of the application. A hearing was held upon this application. At the hearing the Hamill Coal & Coke Company, the Manor Mining & Manufacturing Company, the Potomac Valley Coal Company, the Standard Coal Company, and the Manor Coal Company, all owners of coal lands tributary to the Chaffee's railroad, filed a joint intervening position asking that the application be granted.

At the hearing the counsel for the Western Maryland stated the position of that company as follows:

The Western Maryland Railway is the trunk line with which the petitioner's line connects. In its informal protest to the granting of this petition the attitude of the Western Maryland Railway was this, that if this procedure is merely a procedure for the obtaining of a certificate of public convenience and necessity for the operation as a common carrier by the petitioner, and if the petitioner, in its application, does not, in this proceeding, intend to ask for a division of rates, nor in the future ask for a division of rates, then we have no active objection to the granting of the certificate irrespective of what our



attitude may be as to the legal rights of petitioner to have such a certificate granted; that is, irrespective of what we think, from a legal point of view, petitioner's rights as a common carrier, or not as a common carrier, may be. If the petitioner can assure us at this time that neither in this proceeding nor in the future is it its desire or intention to ask for a division of the through rates, we shall not formally or informally take part in this action or this proceeding this morning.

The Chaffee's attorney declined to give the protestant the assurance stipulated by the Western Maryland, and stated that it was applicant's intention to apply for the establishment of joint through rates. No question relative to the establishment of joint through rates or divisions of rates can be adjudicated in this proceeding.

For several years prior to May 1, 1920, the railroad of the Chaffee was operated by the Chaffee Coal Company as a plant facility. On the latter date the properties of the Chaffee Coal Company, including this railroad, were acquired by the Manor Coal Company, which conveyed the railroad to the Chaffee. The Chaffee proposes to operate the railroad in interstate commerce and has had tariffs on file with us since May 1, 1921.

The primary purpose of the construction of this railroad was to furnish transportation facilities for the output of certain coal mines. It is stated that there are 100,000,000 tons of coal in the tributary territory which can only be marketed over this road. At the present time there are four coal companies that are developing their properties in this territory. The properties of these four companies, including the improvements thereon, represent an investment of about \$1,000,000. There are four other coal properties contiguous to this road which, it is claimed, will be developed, and will ship their product over this line. There is also a large timber acreage, estimated to contain 50,000,000 feet, which has a prospective development. The only towns on this line are Chaffee and Vindex. Chaffee, a place of approximately 150 inhabitants, is located at the junction of this line with the Western Maryland Railway. Vindex has a population of about 600, with approximately 1,500 in the surrounding community. The people at Vindex depend entirely upon this railroad for transportation facilities, as there is no wagon road reaching this territory. The Chaffee states that it is its purpose to establish five new stations on the line.

The Chaffee has an authorized capital stock of \$40,000, all of which has been issued and is outstanding. It also has outstanding a first mortgage of \$110,000, bearing 6 per cent interest, given as security for part of the purchase price of the railroad. An estimate made by an engineer employed by the Chaffee gives the cost of reproduction of this railroad, as of September 1, 1921, as \$173,164, after deducting depreciation of \$17,145.



This railroad traverses a mountainous territory. It has a maximum grade of 7 per cent, which is in favor of the load. A profile filed by the applicant indicates a maximum curvature of 26°. At the hearing the engineer, under whose direction the profile was prepared, expressed doubt as to the correctness of the profile in this respect, as he was sure there were no such sharp curves on this railroad. During the past year this road has been practically reconstructed and most of the track relaid with 85-pound rails. It is stated that the road is in condition for efficient operation as a common carrier. The present equipment consists of a Shay locomotive, a box car, a work car, and a gasoline-motor car for passenger service. The Chaffee states that it is prepared to supply all equipment that may be necessary for proper operation.

During the year ending April 30, 1921, there were shipped over this road 119,772 tons of coal and 50 cars of miscellaneous freight. It is claimed that during a large part of this period coal shipments were curtailed by car shortage. In the four months ending August 31, 1921, shipments of coal amounted to 24,087 tons. It appears that during these months there was acute depression in the coal industry and only one of the coal companies served by this road conducted any substantial operations. The applicant estimates that in future, during a normal period, it should move 40 cars of coal a day, as the mines along its line are being equipped for larger production. Most of the coal traffic is destined to Eastern and New England markets. From May 1, 1921, to August 31, 1921, the average number of passengers carried daily was 24. Based on a movement of 200,000 tons of coal, the applicant estimates its annual operating revenues would be \$53,700 and its operating expenses would be \$32,500. It appears that there is a reasonable prospect that this road would earn a satisfactory return.

The protestant asserts, in substance, that there is a community of interest between the Chaffee and the Manor Coal Company, which is the largest shipper over this road, that much of the territory tributary to the Chaffee's railroad can use the Western Maryland Railway as an outlet; and that we have no power to grant a certificate for the reason that the Chaffee is not a common carrier under the interstate commerce act subject to our jurisdiction.

There are seven directors of the Chaffee and three directors of the Manor Coal Company. At the time of the hearing of this application, the directors of the Manor Coal Company were also directors of the Chaffee. Since the hearing the three directors of the Manor Coal Company, who were also directors of the Chaffee Company, have resigned as directors of the Chaffee. These three directors held stock of the Chaffee in the aggregate amount of \$3,000. The re-

mainder of the Chaffee's stock, amounting to \$37,000, is owned by persons who have no connection with the Manor Coal Company or any other company served by the Chaffee.

That part of the territory tributary to this railroad which borders the Potomac River could possibly be developed from a point on the Western Maryland Railway. This would require either the building of a bridge across the Potomac River or hauling the coal in coal cars over a tipple across the river to a siding that might be constructed parallel to the Western Maryland Railway. It is asserted that the cost of either of these plans would be so great as to be prohibitive.

Upon the facts presented we find that the present and future public convenience and necessity require the operation by the applicant of the line of railroad described in the application. A certificate and order to that effect will be issued accordingly.

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*Certificate of Public Convenience and Necessity.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the operation by the Chaffee Railroad Company of the line of railroad extending from Chaffee, W. Va., to Vindex, Md., described in the application and report aforesaid.

*It is ordered,* That the Chaffee Railroad Company be, and it is hereby, authorized to operate said line of railroad.

*It is further ordered,* That said Chaffee Railroad Company, when filing schedules establishing rates and fares on said line of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

## FINANCE DOCKET No. 1577.

IN THE MATTER OF THE JOINT APPLICATION OF THE CHESAPEAKE & OHIO RAILWAY COMPANY AND THE CHESAPEAKE & OHIO RAILWAY COMPANY OF INDIANA FOR AUTHORITY TO THE FORMER TO ACQUIRE CONTROL, BY LEASE, OF THE PROPERTY OF THE LATTER AND TO ASSUME LIABILITY FOR SECURITIES.

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*Submitted November 17, 1921. Decided December 10, 1921.*

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1. Acquisition by the Chesapeake & Ohio Railway Company of control of the railroad of the Chesapeake & Ohio Railway Company of Indiana, by lease, approved and authorized.
2. Authority granted the Chesapeake & Ohio Railway Company to assume obligation and liability, as lessee, in respect of \$7,711,000 of first-mortgage gold bonds of the Chesapeake & Ohio Railway Company of Indiana, by agreeing (1) to pay the principal and interest of said bonds, as and when due; (2) to perform all the covenants and conditions of the mortgage securing them; and (3) to indemnify and hold the lessor harmless from forfeiture or liability by reason of any breach of such covenants and conditions.

*W. S. Bronson* for applicants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Chesapeake & Ohio Railway Company, hereinafter called the Chesapeake, and the Chesapeake & Ohio Railway Company of Indiana, hereinafter called the Indiana, common carriers by railroad subject to the interstate commerce act, on September 6, 1921, filed their joint application for (a) a certificate that the present and future public convenience and necessity require, or will require, the operation by the Chesapeake of the line of railroad of the Indiana, and permit the abandonment by the Indiana of the operation of said line of railroad coincident with the assumption of its operation by the Chesapeake; or (b) an order approving and authorizing the acquisition by the Chesapeake of the control of the line of the Indiana through the lease to it of the properties, rights, and franchises of the Indiana; or (c) both such certificate and order; and (d) authority for the Chesapeake to assume liability for the bonds of the Indiana, and upon the mortgage securing the bonds, to the extent set forth in the lease.

Due notice of the filing of the application was given and a hearing was held thereon. The State Corporation Commission of Virginia has approved the application. No representations have been made by any other State authorities either in favor of or against the granting of the application.

The railroad of the Indiana extends from Cincinnati, Ohio, to a point on the Indiana-Illinois State line at Hammond, Ind., a distance of approximately 260 miles, and secures an entrance into Chicago, Ill., through trackage contracts covering lines from Hammond. This line does not parallel or compete with the Chesapeake's line, but constitutes an extension thereof.

The Chesapeake, in 1910, caused the Indiana to be incorporated, and the latter company thereupon acquired from the purchasers at foreclosure sale all the properties, rights, and franchises formerly of the Chicago, Cincinnati & Louisville Railroad Company, which owned substantially the present railroad of the Indiana. At the same time, the Chesapeake acquired \$5,998,800, par value, of the capital stock of the Indiana, being all of its issued and outstanding stock excepting 12 shares held by directors and other individuals, and also acquired all the outstanding bonds of the Indiana, amounting to \$7,711,000, and is now the owner of all of the said stock and bonds. The Chesapeake also holds all the floating and other indebtedness of the Indiana, except certain current operating accounts. The purpose of the Chesapeake, in procuring the incorporation of the Indiana and in acquiring the stocks and bonds of that company was to extend its line of railroad, then terminating at Cincinnati, to Chicago. Since the incorporation of the Indiana its railroad has been operated as a part of the Chesapeake's railroad system, and the operating returns of the Indiana have been included in the Chesapeake's reports. The applicants assert that the proposed lease will enable the Chesapeake to operate the line of the Indiana more efficiently and will effect economies in operation and accounting, and that the proposed arrangement will relieve the applicants of the necessity of formal compliance with the requirements of section 10 of the Clayton Antitrust Act, which is technically applicable under the present status.

No tentative valuation of the property of the Indiana has been made by our Bureau of Valuation. The general balance sheet of the Indiana, as of June 30, 1921, showed an investment in road and equipment of \$13,467,051.99. This figure represents the original cost of acquiring the property plus the amounts since expended for additions and betterments.

By the terms of the proposed lease the Indiana demises to the Chesapeake for the term of 999 years the railroad owned and operated by it, and assigns to the Chesapeake all contracts granting trackage

or other rights to the Indiana. The Chesapeake proposes to pay to the Indiana, as rental, the sum of \$100 a year, and in addition thereto to pay all taxes and insurance premiums related to the property, all sums to become payable by the Indiana under any rental or trackage contracts, a sum sufficient to enable the Indiana to maintain its corporate organization, and an amount equal to the interest accruing from time to time upon the first-mortgage bonds and any other obligations of the Indiana now or hereafter issued and outstanding. The Chesapeake further agrees to assume the obligation and liability of the Indiana (1) to pay to the holders thereof the principal of the \$7,711,000 of first-mortgage bonds, now outstanding; (2) to perform all the covenants and conditions of the mortgage securing them; and (3) to indemnify and hold harmless the Indiana from any forfeiture or liability by reason of any breach of such covenants and conditions. The obligation and liability stated in the above subdivisions (1) and (2) are required to be assumed by any lessee of the Indiana, according to the provisions of that company's first mortgage.

The lease further provides that the Indiana, upon request of the Chesapeake, will, from time to time, issue its first-mortgage bonds or other obligations, or capital stock, for the purpose of making improvements, betterments, or additions to the demised premises. Upon the maturity of any of its bonds during the term of the lease, the Indiana agrees to provide for their extension or to issue new bonds in an equal principal amount, to be exchanged therefor or otherwise disposed of as the Chesapeake may desire. In either event the Chesapeake agrees to assume the same obligation and liability in respect of such new or extended bonds or obligations as in respect of the Indiana's bonds now outstanding.

The bonds of the Indiana mature July 1, 1930, and were issued prior to the effective date of section 20a under and pursuant to its first mortgage and deed of trust dated July 5, 1910, to the Mercantile Trust Company, now the Bankers Trust Company, and Henry C. Starr, trustees. All of these bonds have been pledged by the Chesapeake under its first-lien and improvement 20-year mortgage to the United States Mortgage & Trust Company and William H. White (John M. Miller successor to William H. White), trustees.

Upon the facts presented we find (1) that the acquisition by the Chesapeake & Ohio Railway Company of control of the railroad of the Chesapeake & Ohio Railway Company of Indiana under the terms of the lease described in the application will be in the public interest; and (2) that the proposed assumption by the Chesapeake & Ohio Railway Company of obligation and liability, as lessee, in respect of first-mortgage bonds of the Chesapeake & Ohio Railway Company of Indiana, (a) is for lawful objects within its corporate

purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

COMMISSIONER POTTER dissents.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the Chesapeake & Ohio Railway Company be, and it is hereby, authorized to acquire control of the railroad of the Chesapeake & Ohio Railway Company of Indiana in accordance with the terms of the lease described in the application and the report aforesaid: *Provided*, That the authorization herein given is upon the express condition that the Chesapeake & Ohio Railway Company shall not sell, pledge, or otherwise dispose of the capital stock or bonds of the Chesapeake & Ohio Railway Company of Indiana, or any part thereof, without the consent of the Interstate Commerce Commission.

*It is further ordered*, That the Chesapeake & Ohio Railway Company be, and it is hereby, authorized, as part consideration for said lease, to assume obligation and liability, as lessee, in respect of \$7,711,000 of first-mortgage 5 per cent 20-year gold bonds of the Chesapeake & Ohio Railway Company of Indiana, now outstanding, maturing July 1, 1930, issued under and pursuant to its mortgage dated July 5, 1910, to the Mercantile Trust Company (now the Bankers Trust Company) and Henry C. Starr, trustees, by agreeing (1) to pay the principal and interest of said bonds, as and when due; (2) to perform all the covenants and conditions of the mortgage securing said bonds; and (3) to indemnify and hold the lessor harmless from forfeiture or liability by reason of any breach of such covenants and conditions.

*It is further ordered*, That the Chesapeake & Ohio Railway Company shall, within 10 days after the execution thereof, file with this commission a verified copy of said lease, as executed.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.



## FINANCE DOCKET No. 1611.

## IN THE MATTER OF THE APPLICATION OF THE MINNEAPOLIS, ST. PAUL &amp; SAULT STE. MARIE RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted December 6, 1921. Decided December 10, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in the county of Crow Wing, in the State of Minnesota.

*A. H. Lossow* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Minneapolis, St. Paul & Sault Ste. Marie Railway Company, a carrier by railroad subject to the interstate commerce act, filed an application on October 7, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of the Deerwood branch of its line of railroad, located in the county of Crow Wing, Minn. The State authorities having approved the proposed abandonment, the case was submitted without formal hearing.

The branch line in question extends in a general southwesterly direction from Ironhub to Deerwood, in Crow Wing County, Minn., a distance of 3.9 miles. It was constructed in 1910 primarily for the purpose of developing bodies of iron ore in the South Cuyuna Range. Subsequent exploration proved the ore to be of no commercial value and none of it was ever shipped.

According to the record, the total initial cost was \$166,063.79 for this line. No grants or donations were made to the builder in consideration of its construction. An amount of \$78,000 of applicant's first consolidated 4 per cent bonds was issued against the line and constitutes a first lien on the property. The bonds will mature in 1938. Another outstanding issue of 4 per cent bonds, totaling \$3,500,000, constitutes a second lien on the entire property of the applicant, including this branch. This issue will mature on January 1, 1949. No other evidences of indebtedness are resting against the branch property.



Train service on the branch line was discontinued on June 10, 1918, because it had no traffic. The roadway, culverts, and bridges are unsafe for the operation of trains; and it is estimated that it would require an expenditure of \$65,000 to put the line in passable condition.

Records submitted by the applicant show that from January 1, 1916, to June 10, 1918, only 1,767 tons of freight, consisting of explosives, merchandise, and small quantities of miscellaneous commodities, and only 52 passengers were carried on this branch. The region traversed by the line is rocky and practically untillable; and the population averages less than three to each square mile. The line was operated at a substantial loss from the time it was opened to traffic.

As Ironhub, the northern terminus, is served by the applicant, and Deerwood, the southern terminus, by the Northern Pacific Railway, and either point is easily accessible to the intervening territory, no person will be deprived of reasonable transportation facilities by the granting of the application.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the branch line of railroad in question. A certificate to that effect will be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity permit the abandonment by the Minneapolis, St. Paul & Sault Ste. Marie Railway Company, of its branch line of railroad extending from Ironhub to Deerwood, in the county of Crow Wing, Minn., described in the application and report aforesaid.

*It is ordered,* That the said Minneapolis, St. Paul & Sault Ste. Marie Railway Company be, and it is hereby, authorized to abandon said branch line of railroad.

*It is further ordered,* That the said Minneapolis, St. Paul & Sault Ste. Marie Railway Company, when filing schedules canceling tariffs applicable to said branch line of railroad, shall, in such schedules, make specific reference to this certificate by title, date, and docket number.

## FINANCE DOCKET No. 1023.

## IN THE MATTER OF THE APPLICATION OF THE TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS FOR A LOAN FROM THE UNITED STATES TO AID IN MEETING MATURING INDEBTEDNESS AND IN MAKING ADDITIONS AND BETTERMENTS.

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*Submitted November 28, 1921. Decided December 14, 1921.*

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Upon supplemental application in respect of the loan for additions and betterments, and consideration thereof, authority granted to apply specified amounts to specified purposes not originally included in the purposes of the loan in lieu of corresponding amounts now desired to be abandoned or deferred. Certificate No. 20 of September 23, 1920, so amended as to provide that the time within which the applicant shall expend or definitely obligate the loan be extended from November 1, 1921, to November 1, 1922. Previous report, 65 I. C. C., 148.

*C. A. Vinnedge* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On September 23, 1920, we issued our report and amended certificate No. 20, 65 I. C. C., 148, 195, to the Secretary of the Treasury approving the making of a loan of \$896,925 by the United States to the Terminal Railroad Association of St. Louis, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of aiding the applicant in meeting its maturing indebtedness and providing itself with additions and betterments.

The loan was in two parts: maturing indebtedness, \$377,750, and additions and betterments, \$519,175. That part of the loan for maturing indebtedness is not under consideration.

One of the conditions of the loan in respect to additions and betterments was that the applicant should furnish progress reports as to its expenditures from the proceeds of the loan on January 1 and July 1, 1921, and that the entire loan should have been expended or definitely obligated for the purposes for which loaned, or the entire loan should be repaid to the United States, on or before November 1, 1921.

On November 28, 1921, the applicant filed with us detailed statements showing expenditures made as of June 30, 1921, and on the same date filed application for authority to apply specified amounts

to specified purposes not originally included in the purposes of the loan in lieu of corresponding items desired to be abandoned or deferred.

The applicant represented to us that owing to a sudden and radical change in business conditions certain of the items of the improvement program were rendered unnecessary, and therefore the improvements were not undertaken, and that owing to increases in labor and material costs, strikes, etc., certain of the purposes called for an overexpenditure.

After investigation we find that the requested authority should be granted and that the time within which the applicant should expend or definitely obligate the proceeds of the loan should be extended from November 1, 1921, to November 1, 1922.

We further find that the following purposes, which will be the basis of future reports of progress by the applicant, are necessary to enable the applicant properly to meet the transportation needs of the public.

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
Additions and betterments to way and structures:			
Reconstructing upper roadway, Eads bridge.....	\$157,065	\$85,311	\$71,754
Renewing Eads bridge trusses, etc.....	161,094	75,547	85,547
Completing Upper Wiggins yard.....	53,857	379	53,478
Blow-off, etc, Fourteenth Street shops.....	30,173	14,173	16,000
Brooklyn shops extension.....	581,261	288,865	292,396
Total.....	983,450	464,275	519,175

Our certificate No. 20 of September 23, 1920, will be amended accordingly.

*Amendment to Certificate No. 20 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 20 of September 23, 1920, to the Secretary of the Treasury, approving the making of a loan of \$896,925 by the United States to the Terminal Railroad Association of St. Louis, hereinafter referred to as the applicant, by changing subparagraph (f) of paragraph 5 to read as follows:

(f) The applicant has agreed in an instrument in writing, dated September 23, 1920, supplemented December 19, 1921, to the following conditions: (1) That the amount to be financed by the applicant in connection with the loan shall be so financed that the cost to it of any loans secured from sources other than the United States shall not exceed 7 per cent per annum, including in such cost discounts, attorneys' fees, and any and all other expenses in connection

therewith; (2) the expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (3) the applicant shall furnish the commission on or about January 1 and July 1, 1921, and January 1, July 1, and November 1, 1922, a detailed certificate, under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with this loan for said purposes. The loan for additions and betterments shall have been expended or definitely obligated for the purposes for which loaned, or shall be repaid to the United States, on or before November 1, 1922.

Done in Washington, D. C., this 23d day of December, 1921.

70 I. C. C.

## FINANCE DOCKET No. 1284.

## IN THE MATTER OF THE APPLICATION OF THE BUFFALO, ROCHESTER &amp; PITTSBURGH RAILWAY COMPANY FOR AUTHORITY TO ISSUE AND PLEDGE CONSOLIDATED-MORTGAGE BONDS.

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*Submitted December 8, 1921. Decided December 14, 1921.*

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Authority granted to sell \$3,949,000 of consolidated-mortgage 4½ per cent bonds at not less than 82½ per cent of par and accrued interest. Previous report, 67 I. C. C., 636.

*Havens, Mann, Strang & Whipple* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

By a supplemental application duly filed in this proceeding on December 8, 1921, the Buffalo, Rochester & Pittsburgh Railway Company has requested authority to sell \$3,949,000 of consolidated-mortgage bonds now held in its treasury. No objection has been made to the granting of the application.

By our order herein dated May 20, 1921, 67 I. C. C., 636, we authorized the applicant to issue \$3,949,000 of consolidated-mortgage bonds for the purpose of reimbursing its treasury for expenditures for the retirement of underlying securities and for additions and betterments to road and equipment, and to pledge all or any part of these bonds, from time to time, as security for such short-term notes as might be issued under paragraph (9) of section 20a of the interstate commerce act.

The applicant represents that it is now in a position to dispose of the bonds advantageously, and authority is sought to sell them at not less than 82½ per cent of par and accrued interest. The bonds were issued under and secured by the consolidated mortgage dated May 1, 1907, made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York). They bear interest at the rate of 4½ per cent per annum, and will mature May 1, 1957. The sale of the bonds at 82½ will result in a net cost to the applicant of approximately 5.65 per cent per annum.

We find that the proposed sale of bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes, and com-

patible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### SUPPLEMENTAL ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the order of this commission dated May 20, 1921, in the above-entitled proceeding be, and it is hereby, modified so as to authorize the Buffalo, Rochester & Pittsburgh Railway Company to sell not exceeding \$3,949,000, principal amount, of its consolidated-mortgage bonds, now held in its treasury (which have heretofore been authenticated and delivered to the applicant by the corporate trustee pursuant to the authority contained in said order of May 20, 1921), at not less than 82½ per cent of par and accrued interest.

*It is further ordered*, That, except as herein authorized to be sold, and as authorized to be pledged in said order of May 20, 1921, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, report to this commission all pertinent facts relating to the sale of said bonds; such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That, except as herein modified, said order of May 20, 1921, shall remain in full force and effect.

70 I. C. C.

FINANCE DOCKET No. 1633.

IN THE MATTER OF THE JOINT APPLICATION OF THE CUMBERLAND TELEPHONE & TELEGRAPH COMPANY, INCORPORATED, THE EAST TENNESSEE TELEPHONE COMPANY OF VIRGINIA, THE BRISTOL TELEPHONE COMPANY, AND THE CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF VIRGINIA FOR A CERTIFICATE THAT CONSOLIDATION OF PROPERTIES WILL BE IN THE PUBLIC INTEREST.

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*Submitted December 1, 1921. Decided December 14, 1921.*

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Certificate issued authorizing the consolidation of certain telephone properties in Tennessee and Virginia.

*E. D. Smith* for Cumberland Telephone & Telegraph Company, Incorporated, and East Tennessee Telephone Company of Virginia.

*E. K. Bachman* for Bristol Telephone Company.

*C. W. Artz* and *R. J. Eby* for Chesapeake & Potomac Telephone Company of Virginia.

*Joseph Caldwell*, city attorney, for city of Bristol, Tenn.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Cumberland Telephone & Telegraph Company, Incorporated, the East Tennessee Telephone Company of Virginia, the Bristol Telephone Company, and the Chesapeake & Potomac Telephone Company of Virginia, hereinafter referred to, respectively, as the Cumberland Company, the East Tennessee Company, the Bristol Company, and the Chesapeake Company, on October 27, 1921, filed a joint application pursuant to the provisions of section 5 of the interstate commerce act, as amended by act of Congress approved June 10, 1921, amending section 407 of the transportation act, 1920, for a certificate that the proposed consolidation of certain telephone properties owned by the applicants and described in said application will be of advantage to the persons to whom service is to be rendered and in the public interest.



By the terms of a tentative agreement entered into by and between the four applicants, certain telephone property is to be conveyed to a corporation to be known as the Inter-Mountain Telephone Company, hereinafter referred to as the consolidated company, which property is described generally as follows:

The Chesapeake Company will convey all of the exchange plant owned by it in Washington and Smyth Counties, Va., comprising a number of local exchanges and certain toll lines, receiving in exchange therefor \$20,200, par value, of the second preferred 6 per cent noncumulative nonvoting capital stock of the consolidated company, and \$39,300, par value, of its common stock. The estimated present structural value of these properties is \$59,594.75, not including any allowance for intangibles.

The Cumberland Company will convey exchange property at seven exchanges in Tennessee having an estimated structural value of \$211,362.69, for which the Cumberland will receive \$57,800, par value, of the second preferred 6 per cent noncumulative nonvoting capital stock of the consolidated company and \$105,700, par value, of its common stock, together with cash in the sum of \$11,221.34, representing the value of net additions to the property since the date of the contract.

The East Tennessee Company will convey a small amount of the exchange property owned by it, which, however, is included in the transaction as a part of the property of the Cumberland Company last above described.

The Bristol Company will convey its exchange property located at Bristol, Johnson City, and Jonesboro, Tenn., and at Abingdon and Glade Springs, Va., receiving in exchange the first preferred 6 per cent cumulative voting stock of the consolidated company of the par value of \$53,000, and the common stock of the latter of the par value of \$124,000. The value of the property of the Bristol Company is estimated at \$193,086.02, not including any allowance for intangibles.

It thus appears that the consolidated company will issue \$400,000, par value, of securities, of which \$322,000 will be voting stock, and that of this latter amount the Bristol Company will hold \$177,000, par value. The Bristol Company is a part of the so-called independent group, and will, through its ownership of a majority of the voting stock, control the consolidated company. After completion of unification of the various exchanges, it is estimated that the consolidated company will serve approximately 5,150 subscribers, of whom 2,475 will be served at Bristol, Va.-Tenn. The Tennessee Railroad and Public Utilities Commission and the Virginia State Corporation Commission have approved the consolidation and the several municipalities affected have by ordinance authorized the

transaction. The consolidated company will be subject to the interstate commerce act. Final action has not yet been taken looking to the establishment of local rates for the consolidated property, but this matter is within the control of the respective State commissions.

Duplicate telephone plants owned by one or the other of the four applicants are operated at Bristol, Johnson City, and Abingdon. At Bristol about 40 per cent of the stations of the Cumberland Company are duplicated by the Bristol Company's stations. At Johnson City 30 per cent of the Cumberland Company's stations are duplicated by the Bristol Company, and at Abingdon the percentage of duplication is 32 per cent. The total investment of the consolidated company upon which rates in the future must be based will be considerably less than the aggregate investment of the four companies now giving service in the same localities, but the exact effect of the consolidation upon the present schedule of rates has not yet been determined. Telephone users in these localities have been subjected to much inconvenience by reason of the maintenance of competing exchanges, and telephone service in those communities, as a result of this and other adverse conditions, has been unsatisfactory. The largest single exchange in the territory is that of the Bristol Company, which operates only 91 miles of toll line and affords no telephone connection beyond its own circuits. The consolidated company, however, will connect at its own switchboard with the so-called Bell toll lines and supply needed long-distance service to all parts of the country.

Upon the facts presented we find that the proposed consolidation as set forth in the joint application will be of advantage to the persons to whom service is to be rendered, and in the public interest. A certificate to that effect will be issued.

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*Certificate of Advantage and Public Interest.*

A hearing having been had in this proceeding, and full investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the proposed consolidation of certain telephone properties owned by the applicants and described in said report will be of advantage to the persons to whom service is to be rendered and in the public interest.

## FINANCE DOCKET No. 1797.

IN THE MATTER OF THE APPLICATION OF THE  
DULUTH, MISSABE & NORTHERN RAILWAY COM-  
PANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted November 21, 1921. Decided December 14, 1921.*

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Authority granted to issue \$1,174,000 of general-mortgage 5 per cent gold bonds, for the purpose of refunding a like amount of first-division mortgage bonds which mature January 1, 1922. Terms and conditions prescribed.

*Frank D. Adams* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Duluth, Missabe & Northern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$1,174,000 of general-mortgage 5 per cent gold bonds, for the purpose of refunding a like amount of first-division mortgage bonds which mature January 1, 1922. No objection to the granting of the application has been offered.

The first-division mortgage was made to the Metropolitan Trust Company to secure an issue of \$1,300,000 of 6 per cent bonds. Of these bonds \$100,000 were never issued, and have been canceled and destroyed, and \$26,000 were exchanged for a like amount of first consolidated bonds issued under its consolidated first mortgage, made to the Central Trust Company of New York to secure an authorized issue of \$3,500,000 of 6 per cent bonds, maturing January 1, 1923.

Of the bonds authorized under the consolidated first mortgage, \$2,300,000 were issued, and \$1,200,000 were delivered to the trustee in escrow for the purpose of retiring first-division mortgage bonds, of which \$26,000 have been retired as mentioned above. The consolidated first-mortgage bonds thus issued, aggregating \$2,326,000, have all been reacquired by the applicant through the operation of a sinking fund.

There remain in the hands of the trustee under the consolidated first mortgage \$1,174,000 of bonds to refund a like amount of first-

division mortgage bonds now outstanding, but inasmuch as the consolidated first-mortgage bonds mature January 1, 1923, the applicant states that it would be impracticable to refund the first-division bonds for such a short period.

The applicant therefore proposes to issue \$1,174,000 of general-mortgage 5 per cent gold bonds, maturing January 1, 1941, under the provisions of its general mortgage dated January 1, 1906, to the New York Trust Company, for the purpose of refunding and retiring the first-division mortgage bonds. The applicant will redeem all bonds not presented for exchange before maturity, and the bonds so redeemed will be presented by it to the trustee under the general mortgage for exchange for general-mortgage bonds. The general-mortgage bonds so received by the applicant will be sold at 95 per cent of par and accrued interest to reimburse it in part for expenditures made in the redemption of first-division mortgage bonds.

We find that the proposed issue of bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Duluth, Missabe & Northern Railway Company be, and it is hereby, authorized to issue not exceeding \$1,174,000, principal amount, of general-mortgage 5 per cent gold bonds under and pursuant to, and to be secured by, the general mortgage dated January 1, 1906, made by the applicant to the New York Trust Company; said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on January 1 and July 1 in each year, and to mature January 1, 1941; said bonds to be exchanged, par for par, for such first-division mortgage 6 per cent gold bonds of the applicant which are now outstanding and will mature January 1, 1922, as may be presented for exchange before maturity, and such general-mortgage gold bonds as may not be so exchanged to be sold at not less than 95 per cent of par and accrued interest; the pro-

ceeds of bonds so sold to be used solely to reimburse the applicant, to the extent thereof, for expenditures made from its treasury to retire first-division mortgage bonds not presented for exchange.

*It is further ordered,* That, except as herein authorized, said general-mortgage gold bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered,* That the applicant shall, within 10 days after the maturity of said first-division mortgage bonds, report to this commission all pertinent facts relating (1) to the exchange of said general-mortgage bonds for first-division mortgage bonds, and (2) to the sale of general-mortgage bonds, as herein authorized; such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said general-mortgage bonds or said first-division mortgage bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1606.

IN THE MATTER OF FINAL SETTLEMENT UNDER SECTION  
209 OF THE TRANSPORTATION ACT, 1920.

---

*Decided December 15, 1921.*

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1. December 31, 1921, is fixed as the date as of which all accounts pertaining to the guaranty period shall be considered closed for the purpose of computing the guaranty.
2. All carriers which accepted the provisions of section 209 of the transportation act, 1920, are required to file on or before March 1, 1922, final statements of amounts due to them or to the United States thereunder. Forms for rendition of statements prescribed.
3. In the computation of railway operating income or any deficit therein for the guaranty period for the purposes of section 209 of the transportation act, 1920, the provisions of subdivision (f) of the section are provisions limiting the inclusion in guaranty computation of charges to operating expenses or revenues actually entered on the carrier's books of account under the accounting rules of the commission and do not contemplate any increase of or addition to such charges for the purposes of the guaranty settlement.
4. For the purpose of the guaranty, charges to operating expenses for maintenance will be limited to those applying to work done between March 1 and August 31, 1920, inclusive, and to charges accrued or equalized in accordance with the commission's accounting rules. No charges for deferred maintenance will be considered.
5. Estimates of the net effect of deferred debit and credit items made by the commission and agreed to by carriers under the authority of paragraph (b) of section 212 will be considered in computing the guaranty.
6. Announcement of general rule for adjustment of differences in cost of labor and material in establishing the maximum amounts to be included in operating expenses for maintenance of way and structures and for maintenance of equipment for the purposes of the guaranty.
7. Methods of adjustment for differences in amount and use of property separately indicated for maintenance of way and structures and for maintenance of equipment.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

By subdivision (g) of section 209 of the transportation act, 1920, we are charged with the duty of ascertaining and certifying to the Secretary of the Treasury, as soon as practicable after the expiration of the guaranty period on August 31, 1920, the several amounts necessary to make good to each carrier the guaranty of the section,

and by section 212 of the act, as added on February 26, 1921, partial payments are authorized for any amounts definitely ascertained to be due.

The general rules for computing railway operating income or any deficit therein for the purposes of the guaranty are set forth in section 209 of the act, and, having under consideration the manner in which the railway operating income applicable to the guaranty period is to be determined for such purposes, we issued our order of June 10, 1920, copy of which is annexed hereto as Appendix A. In that order we provided, among other things, for the distribution of items of railway operating income or deficit between the guaranty period and other periods, and with respect to all carriers we required that all items of income classable under any of the accounts comprising the standard return, which under our instructions pertain to the guaranty period, audited during the guaranty period, and similar items audited in the accounts for the months subsequent to August, 1920, shall be distributed upon the corporate books to the appropriate primary accounts for the months in which audited, but that items pertaining to the guaranty period audited subsequent to August, 1920, shall be so recorded as to readily permit the totals thereof for each month to be separately stated.

We directed attention to the fact that carriers might state their income accounts on the basis of accruals and ordered that in computing railway operating income or any deficit therein for the guaranty period for the purposes of section 209, no charges to income will be permitted which relate to transactions originating prior to March 1, 1920, or subsequent to August 31, 1920, whether such charges represent actual expenditures or credits to reserve accounts created to reflect accruals. The carriers were informed that reserve accounts created to reflect accruals pertaining to guaranty period transactions would be closed out or adjusted on the basis of actual expenditures within such reasonable time after August 31, 1920, as we might determine.

More than a year has elapsed since the close of the guaranty period and there appears no reason why, for the purpose of final settlement of the guaranty, reserve accounts created to reflect accruals pertaining to guaranty period transactions should not now be closed out by adjustment to the basis of actual expenditures pertaining to the guaranty period or corrected to reflect such estimates and adjustments as we are authorized to make under section 212 of the transportation act, 1920. We therefore fix December 31, 1921, as the date as of which all reserve accounts pertaining to the guaranty period shall be thus closed out or corrected.

For the purpose of the guaranty, charges to operating expenses for maintenance will be limited to those applying to work done between



March 1 and August 31, 1920, inclusive, and to charges accrued or equalized in accordance with the commission's accounting rules. No charges for deferred maintenance will be considered.

Estimates made by us and agreed to by the carrier under the provisions of paragraph (b) of section 212 will be considered as actual expenditures and shall be so treated in the computation of operating expenses for the guaranty period.

In our order of June 10, 1920, carriers were cautioned that while we are required to eliminate and restate operating expenses and revenues for the guaranty period to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period, which, under a proper system of accounting, is attributable to another period, we are not authorized to initiate or include any charge applicable to the guaranty period which does not appear on the carrier's books of account at the time of the guaranty settlement. But in the adjustments proposed by carriers in the return to our order of October 18, 1920, as well as in correspondence and conferences concerning formulae or plans for determining maintenance and other allowances under subdivision (f) of section 209, many carriers have disregarded the principles which we then announced.

This error is apparently attributable not only to a lack of appreciation, on the part of some of the carriers, of the fundamental differences between the Federal control period and the guaranty period in the method of settlement, but also to the failure to realize the fact that the adjustments of paragraphs (3) and (5) of subdivision (f) are solely provisions of limitation of amounts which may be charged by the carriers in computing railway operating income or any deficit therein for the purposes of the guaranty and do not in any sense contemplate allowances for such purposes in excess of amounts actually entered on the carrier's books of account in accordance with our accounting rules.

With the exception of showing separately items audited in the guaranty period which pertain to other periods and items audited in other periods which pertain to the guaranty period, for which provision is made in our order of June 10, 1920, the accounts for the guaranty period and for items audited in other periods which pertain to the guaranty period should be kept exactly as they should have been kept if there had been no guaranty in effect. In the computation of railway operating income or any deficit therein for the guaranty period for the purposes of section 209 we shall treat the provisions of subdivision (f) of that section as provisions limiting our consideration to the amounts actually charged on the carrier's books of account under the accounting rules prescribed by us pursuant to section 20

of the interstate commerce act, and we shall not for the purposes of the guaranty make or permit any increase of or addition to charges actually on the books in accordance with our accounting rules.

In the case of deferred debits and credits which can not as of December 31, 1921, be definitely determined, carriers will be required to submit estimates of the net effect of any and all of such items for our action under paragraph (b) of section 212 of the transportation act, 1920.

Under the provisions of subdivision (h) of section 209 of the transportation act, we have certified to carriers advances amounting to \$263,935,874 and under the provisions of section 212 of the act we have certified partial payments in the amount of \$165,872,775.05, making a total for advances and partial payments combined of \$429,808,649.05.

The sum of advances and partial payments so certified is more than two-thirds of the total amount estimated by us as necessary to make good the guaranty to all carriers. We are required to make a definite ascertainment for partial-payment purposes as clearly as we are required to make a definite ascertainment in final settlements. We shall require all carriers which accepted the provisions of section 209 of the transportation act, 1920, to file with us on or before March 1, 1922, final statements of amounts due to them or to the United States, as the case may be, under the provisions of section 209, and as a general rule no further partial payments will be certified until the information necessary for a final settlement is at hand. A complete set of forms for making the final returns required is hereto attached marked "Forms for final return of amounts due to or from the United States under the provisions of section 209 of the transportation act, 1920."

By our orders of October 18, 1920, and January 5, 1921, we required carriers to furnish certain information to enable us properly to discharge the duties imposed upon us under the guaranty provisions of section 209. By our report in Finance Docket No. 1176, *Maintenance Expenses under Section 209*, 70 I. C. C., 115, we indicated the general principles for fixing the maximum charges to operating expenses for maintenance under the act.

Upon consideration of the returns to our orders of October 18, 1920, and January 5, 1921, and as a result of investigations made for the purposes of the definite determinations required for partial payments under section 212 of the act, in addition to the facts considered in Finance Docket No. 1176, *Maintenance Expenses under Section 209*, *supra*, we are of the opinion that the allowances for differences that may exist between the cost of labor and material for the test period and for the guaranty period, respectively, can not practicably be made upon the basis of any rigid rule or formula, but these allowances

must be fixed by us in the exercise of a reasonable judgment upon consideration of all the relevant facts and circumstances.

As we have pointed out in our report in Finance Docket No. 1176, there are some items of maintenance for which no allowance should be made on account of changes in cost of labor and material. We therefore announce the following rule for adjustment of differences in cost of labor and material in establishing the amounts which will be fixed by us as amounts which shall not be exceeded in charges to operating expenses for maintenance of way and structures and for maintenance of equipment, for the purposes of the guaranty:

There shall first be deducted from the maintenance expenses of the test period all amounts included therein for (a) depreciation, (b) retirements, and (c) insurance.

The remainder, after being adjusted for differences in amount and use of property maintained, shall be multiplied by a factor representing the increase in the general level of cost of labor and material for the territories in which the lines of railway of the carrier are situated. To the product thus arrived at shall be added back the deductions hereinabove provided for, adjusted for differences in amount and/or use of property maintained. The resulting sum will be the amount to be fixed by us as that which shall not be exceeded in charges to operating expenses for the purposes of the guaranty for the aggregate of maintenance of way and structures and maintenance of equipment. The methods of adjustment for differences in amount and use of property are indicated separately for maintenance of way and structures and for maintenance of equipment in the forms hereto annexed.

Carriers, in presenting their claims or statements of amounts due to or from the United States under the guaranty, will be required to state under oath the increase in cost of labor and material for their respective territories and may support these statements by such statistics and representations as may to them appear proper. In the presentation of such cases it should be borne in mind that the fact that certain prices were actually paid for units of labor or units of material in the test period and the guaranty period, respectively, is not conclusive evidence that those prices indicate or measure increases in cost of labor or material for which "due allowance shall be made." The prices actually paid in either period may be affected by the relative competence of management, by standards of maintenance adopted, or by other causes not attributable to increased cost of labor or material. What we construe the proviso to mean and what we find to be practicable in a settlement of these matters contemplates a determination of changes in the general levels of cost of labor and material beyond the carrier's control. We will proceed to final settlement of each case upon the filing of the accounting returns now

called for by Exhibits A, B, C, and D, and the adjustment return called for by Exhibit E, in the list of forms hereto annexed. These returns, together with the statistics in the returns to our orders of October 18, 1920, and January 5, 1921, will generally suffice for our final determination, and it will not be necessary to place upon the carriers the burden of expense and delay involved in any elaborate statistical compilation.

The allowances for increased compensation provided for in section 4 of the Federal control act will be computed upon rates definitely approved by the President in each case. The treatment to be accorded such allowances in respect of retirements will be that contemplated by section 4 of the Federal control act and not that provided by the "standard contract" if in any case the provisions of the "standard contract" do not agree with the provisions of the act. The additional allowance will be limited to additions and betterments to road, made with the approval of or by order of the President and completed and in operation on or before midnight on February 29, 1920, and to equipment delivered and in operation on or before said date. The benefits of section 4 will be extended to those carriers which were released from Federal control prior to March 1, 1920, as well as to those which were under Federal control until that date.

The provisions of this report and of the order to be issued in connection therewith will apply, with the necessary changes, to settlement of the guaranty with the American Railway Express Company under subdivision (i) of section 209.

An appropriate order will be entered.

#### ORDER.

Said matter being under consideration, and said division having, on the date hereof, made and filed its report therein, which report is hereby referred to and made a part hereof:

*It is ordered*, That each carrier, or its successor, which on or before March 15, 1920, filed with the commission a written statement that it accepted all the provisions of said section 209 be, and it is hereby, required to close out and adjust, as of a date not later than December 31, 1921, all reserve accounts created to reflect accruals pertaining to guaranty period transactions, as described in said report: *Provided, however*, That this requirement is not applicable to any carrier which filed its acceptance as aforesaid but which has since been held by this commission not to be subject to said section 209; and

*It is further ordered*, That each carrier, or successor thereof, to which the aforesaid requirement is applicable, be, and it is hereby, required to file with this commission on or before March 1, 1922, a final statement of the amount due to it or to the United States under the provisions of said section 209; said statement to be rendered substantially in form shown by schedules hereto annexed.

## APPENDIX A.

## INTERSTATE COMMERCE COMMISSION.

## WASHINGTON.

## ORDER.

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 4, held at its office in Washington, D. C., on the 10th day of June, A. D. 1920.

The commission having under consideration the manner in which the railway operating income applicable to the guaranty period is to be determined for the purpose of arriving at the amount payable under the guaranty provision of section 209 of the transportation act, 1920:

*It is ordered*, That the following accounting procedure be observed by all carriers accepting the provisions of section 209 of the transportation act, 1920:

1. With respect to carriers, which were under federal control as of February 29, 1920: The railway operating revenues, railway operating expenses, and other items of income comprised in "standard return," shall be allocated as between the guaranty period and the periods prior and subsequent thereto, in the same manner that such allocation was made between the federal control period and the periods prior and subsequent thereto. The accounting shall be as provided in paragraphs 3 and 5.

2. With respect to nonfederally controlled carriers: All items of railway operating expenses and other items of income other than railway operating revenue, classable under any of the accounts comprising the "standard return," shall be allocated with reference to the time when incurred or to which they are applicable, as between the guaranty period and the periods prior and subsequent thereto. All items of railway operating revenues shall be allocated as between the guaranty period and the periods prior and subsequent thereto, in accordance with the established revenue-accounting practices of the company in effect February 29, 1920, conforming to the commission's regulations. The accounting shall be as provided in paragraphs 4 and 5.

3. With respect to carriers which were under federal control: All items of income classable under any of the accounts comprising the standard return, which, under the provisions of paragraph 1, pertain to the period of federal control, shall be entered upon the federal books and excluded from the corporate books. All similar items audited during the guaranty period which pertain to the period prior to federal control shall be distributed upon the corporate books to the appropriate primary accounts of the month in which audited. Items of the latter class, however, shall be so recorded as to readily permit the totals thereof for each month being stated separately.

4. With respect to nonfederally controlled carriers: All items of income classable under any of the accounts comprising the standard return, audited in the accounts during the guaranty period, which, under the provisions of paragraph 2 pertain to the period prior thereto, shall be distributed upon the corporate books to the appropriate primary accounts of the month in which audited. Such items, however, shall be so recorded as to readily permit the totals thereof for each month being stated separately.

5. With respect to all carriers: All items of income classable under any of the accounts comprising the standard return, which, under the provisions of paragraphs 1 and 2 pertain to the guaranty period, audited during the guaranty period and similar items which are audited in the accounts for the months subsequent to August, 1920,

shall be distributed upon the corporate books to the appropriate primary accounts of the month in which audited. The latter items, however, shall be so recorded as to readily permit the totals thereof for each month being stated separately.

6. Should any carrier state its income accounts on the basis of accruals through the employment of reserve accounts, such carrier shall file with the Commission notice of the adoption of the plan. All such reserve accounts shall be maintained in such manner as to clearly indicate the purposes for which raised and so as to readily reflect at all times the balance in each of such accounts.

7. Reserve accounts created to reflect accruals pertaining to transactions originating prior to March 1, 1920, and subsequent to August 31, 1920, shall be kept altogether distinct and separate from those reserve accounts created to reflect accruals pertaining to guaranty-period transactions. When any items to which reference is made in paragraph 5 and for which reserves have been created are audited, the amount thereof shall be charged or credited as appropriate to those reserve accounts relating specifically to guaranty-period transactions.

8. Any carrier stating its income accounts during any portion of the guaranty period on the basis of accruals through the employment of reserve accounts may thereafter discontinue the practice only if so authorized upon application to the Interstate Commerce Commission. The carrier shall file with its application a statement of its reasons for desiring to discontinue the plan.

9. In computing railway operating income, or any deficits therein, for the guaranty period for the purposes of section 209 of the transportation act, 1920, no charges to income will be permitted which relate to transactions originating prior to March 1, 1920, or subsequently to August 31, 1920, whether such charges represent actual expenditures or credits to reserve accounts created to reflect accruals. Reserve accounts created to reflect accruals pertaining to guaranty-period transactions will be closed out or adjusted on the basis of actual expenditures within such a reasonable time after August 31, 1920, as the Commission may determine. While the Commission is required by section 209 of the transportation act, 1920, to eliminate and restate operating expenses and revenues for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period, the Commission is not authorized by such section to initiate any charge applicable to the guaranty period which does not appear on a carrier's books of accounts at the time of the guaranty settlement.

By the Commission, Division 4.

[SEAL.]

GEORGE B. MCGINTY,  
*Secretary.*  
70 I. C. C.



APPENDIX B.

FORMS FOR FINAL RETURN OF AMOUNTS DUE TO OR FROM THE UNITED STATES UNDER THE PROVISIONS OF SECTION 209 OF THE TRANSPORTATION ACT, 1920.

Request for final settlement.

Exhibit A.—Amount claimed as necessary to make good the guaranty.

Exhibit B.—Test-period average railway operating income.

Exhibit C.—Ascertainment of one-half of annual increase under section 4, federal control act.

Exhibit D.—Net railway operating income (or deficit) for guaranty period.

Exhibit E.—Computation of amounts to be fixed for maintenance.

NOTE.—Each return, when filed, shall be rendered in form substantially as indicated by the annexed sheets and shall be accompanied by six additional copies. Paper approximately 8½ by 11 inches in size should be used, but wherever necessary larger sheets folded to those dimensions may be inserted. Each exhibit and schedule should be filled out or bear some notation, as “Not applicable” or “Nothing to report.”

*Request for final settlement.*

NOTE.—Appropriate changes should be made in both the forms of request and verification in cases of receivership wherein the authority has been conferred by order of the court, etc., and necessary changes should be made in any case where the following forms do not fit the situation of the particular carrier involved. The form of letter should, however, include (1) a request for final settlement with estimate and determination of deferred debits and credits under section 212 of the Transportation Act, 1920, and (2) a statement of the carrier's claim.

..... (City)....., ..... (State).....  
..... (Date) .....

To the Interstate Commerce Commission,  
Washington, D. C.

In accordance with authority conferred upon him by the.....  
.....  
(stockholders, board of directors, or other duly authorized committee), at a meeting held in.....  
on the.....day of....., 19...., a copy of the minutes of which meeting is on file with the Interstate Commerce Commission (or is hereto attached as the case may be), the undersigned requests a final settlement on behalf of the  
..... Company under the guaranty provisions of section 209 of the Transportation Act, 1920, and sets forth the net effect of deferred debits and credits for which an estimate and determination in accordance with the provisions of paragraph (b) of section 212 of said act are requested.

The claim of the..... Company is for a total amount due under the guaranty of said section 209 of the Transportation Act, 1920, including adjustments and allowances as provided in paragraph (b) of said section 212 of said act, of \$....., subject to credits for advances and partial payments amounting to \$....., resulting in a net amount due (to the company or the United States as the case may be) under the provisions of said sections 209 and 212 of said Transportation Act, 1920, of \$....., all of which is more particularly set forth in Exhibit A hereto attached.



Pursuant to your order dated December 15, 1921, the carrier submits herewith final return showing separately the amounts due under the guaranty provisions of said sections 209 and 212 of the Transportation Act, 1920, with adjustment of charges to operating expenses for maintenance of way and structures and for maintenance of equipment according to the increase in the general level of cost of material and labor in the territory within which the lines of railway of respondent are located, to the best knowledge and belief of your petitioner.

.....,  
For ..... Company.

*Verification.*

State of ..... }  
County of ..... } ss.

..... makes oath and says that he is the  
..... of the ....., that  
he has carefully examined each and all of the statements contained in the within  
return; that the factor stated in Schedule 4 of Exhibit E thereof, pursuant to the  
report and order of the Interstate Commerce Commission in Finance Docket No.  
1606, issued on December 15, 1921, and all of the statements in said return, are true  
and correct to the best of his knowledge and belief; that the said return is made with  
the approval, and at the direction, of the .....  
as appears by the minutes of a meeting of said ..... held at  
..... on the ..... day of ..... 192...; and that he  
has been authorized by said ....., as appears  
by the minutes of said meeting, to execute such papers as may be required in connec-  
tion with any settlement that may be made between the respondent and the United  
States under said sections 209 and 212 of the Transportation Act, 1920.

.....  
Subscribed and sworn to before me, a ..... in and for the State  
and county above named, this ..... day of ....., 192...

.....  
My commission expires .....

EXHIBIT A.

AMOUNT CLAIMED AS NECESSARY TO MAKE GOOD THE GUARANTY UNDER SECTION 209 OF THE TRANSPORTATION ACT, 1920, AS AMENDED BY SECTION 212 THEREOF.

	As claimed by respondent.		Respondent should not use these columns. For use by the Commission.	
Amount of guaranty by the United States under paragraph (see Note 1) of subdivision (c) of section 209 of the Transportation Act, 1920, subdivided as follows:				
(a) Amount of (see Note 2).....		XXXX		XXXX
(b) Plus one-half of the annual increase (or decrease) provided for in section 4 of the Federal Control Act—Exhibit C.....		XXXX		XXXX
Total amount guaranteed under section 209.....	XXX		XXXX	
(c) Less—Railway operating income applicable to guaranty period as shown in Exhibit D.....	XXX		XXXX	
(d) Plus—Railway operating deficit applicable to the guaranty period as shown in Exhibit D.....	XXX		XXXX	
(e) Total amount claimed as due Respondent under said section 209 and subject to certification to the Secretary of the Treasury of the United States under paragraph (g) thereof.....	XXX		XXXX	
Less—Amounts previously certified for payment to Respondent:				
(1) As advances under section 209 (h).....		XXXX		XXXX
(2) As partial payments under section 209 (g).....		XXXX		XXXX
Total amount previously certified.....	XXX		XXXX	
Balance ascertained as due Respondent.....	XXX		XXXX	
Balance ascertained as due United States.....	XXX		XXXX	

NOTE 1.—The paragraph number to be inserted should be 1, 2, 3, or 4, according to the provisions of law under which the claim is made.

NOTE 2.—Item (a) should show the basis of the guaranty in the circumstances covered by Note 1, e. g.:

(a) "Amount of guaranty (exclusive of increase under section 4 of the Federal Control Act) being one-half of the annual compensation named in contract between the President and Respondent as finally certified by the Commission."

(b) "Amount of guaranty (exclusive of increase under section 4 of the Federal Control Act) being such proportion of the lump sum so fixed as six months (the guaranty period) bears to the number of months (show the number) covered by the contract for which the lump sum is in compensation."

(c) "Amount of guaranty being one-half of the annual amount estimated by the President as just compensation under the Federal Control Act."

(d) "Amount of guaranty (exclusive of increase under section 4 of the Federal Control Act) being one-half of its average annual deficit in operating income for the test period as the maximum deficit."

(e) "Amount of guaranty being one-half the average annual railway operating income of Respondent during the test period."

EXHIBIT B.

TEST PERIOD AVERAGE RAILWAY OPERATING INCOME OF THE ..... COMPANY AS COMPUTED IN THE MANNER PROVIDED FOR IN SECTION 1 OF THE FEDERAL CONTROL ACT, WITH ADJUSTMENTS THEREIN REQUIRED BY THE INTERSTATE COMMERCE COMMISSION, FOR THE THREE YEARS ENDED JUNE 30, 1917.

Item.	Year ended—				Adjustments.			Total as adjusted. (Col-umns (e), (f), (g) and (h).)	Average for one year: one-third of total of col-umn (f).	Average for six months: one-sixth of total of col-umn (f).
	June 30, 1915.	June 30, 1916.	June 30, 1917.	Total.	War taxes.	Wages paid or payable under Adamson Act.	Correc-tion of account-ing errors.			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
<i>Credits.</i>										
Railway operating revenues (state by primary accounts, showing total of operating revenues) .....										
Equipment rents (state separately for accounts 503, 504, 505, 508, and 507) ..										
Joint facility rent income (account 508) .....										
Total credits .....										
<i>Debits.</i>										
Railway operating expenses (state by primary accounts, showing totals by general accounts and combined total) .....										
Railway tax accruals (account 532) .....										
Uncollectible railway revenue (account 533) .....										
Equipment rents (state separately for accounts 536, 537, 538, 539, and 540) ..										
Joint facility rents (account 541) .....										
Total debits .....										
Railway operating income (or deficit) .....										
Average number of miles of road operated .....					XXXX	XXXX	XXXX			
Average number of miles of track operated, the maintenance expenses of which were charged to primary maintenance accounts other than joint facility accounts:										
First main track .....										
Other main track .....										
Yard tracks and sidings .....										
Total .....										

NOTE 1.—If operated by a receiver or under a different name for any portion of the test period, state name of receiver or the name of carrier and the period so operated here.  
NOTE 2.—Amounts reported in columns (f), (g), and (h), "War taxes," "Wages paid or payable under Adamson Act," and "Correction of accounting errors" under "Adjustments" should be detailed by primary accounts.

EXHIBIT C.

ASCERTAINMENT OF ONE-HALF OF THE ANNUAL INCREASE PROVIDED FOR IN SECTION 4 OF THE FEDERAL CONTROL ACT.

Investment in Road and Equipment:		
(a) Road:	\$	
(a) 1 As of December 31, 1917 .....		XXXXXX
(a) 2 As of March 1, 1920.....		XXXXXX
(a) 3 Increase (or decrease).....	XXXXXXXX	
(a) 4 Deduct—Cost of any additions and betterments and any road extensions to property made without the approval or by order of the President (Director General of Railroads).....	XXXXXX	
(a) 5 Net increase (or decrease).....	XXXXXX	
Analysis.		
(a) 6 Undertakings completed as at February 29, 1920.....		XXXXXX
(a) 7 Less —Retirements.....		XXXXXX
(a) 8 Net.....		XXXXXX
(a) 9 Undertakings incomplete as at February 29, 1920.....		XXXXXX
(a) 10 Total (should equal (a) 5).....		XXXXXX
(b) Equipment:		
(b) 1 As of December 31, 1917.....		XXXXXX
(b) 2 As of March 1, 1920.....		XXXXXX
(b) 3 Increase (or decrease).....	XXXXXXXX	
(b) 4 Deduct—Cost of any additions and betterments to and any acquisition of equipment made without the approval or by order of the President (Director General of Railroads).....	XXXX	
(b) 5 Net increase (or decrease).....	XXXX	
Analysis.		
(b) 6 Equipment delivered on or before midnight, February 29, 1920.		XXXXXX
(b) 7 Less—Retirements.....		XXXXXXXX
(b) 8 Net.....		XXXXXXXX
(b) 9 Equipment delivered subsequent to midnight, February 29, 1920.		XXXXXXXX
(b) 10 Total (should equal (b) 5).....		XXXXXX
(c) Total road and equipment as accounted for (a) 5 plus (b) 5 .....	XXXXXXXX	
(d) Computation of interest:		
(d) 1 Interest at 4% per annum on net increase (or decrease) in road completed as of February 29, 1920 [(a) 8 at 4%].....		XXXXXXXX
(d) 2 Interest at 6% per annum on net increase (or decrease) in equipment delivered on or prior to midnight, February 29, 1920 [(b) 8 at 6%].....		XXXXXX
(d) 3 Total (d) 1 plus (or minus) (d) 2.....		XXXXXX
(d) 4 50% of (d) 3 (reported as item (b) in Exhibit A).....	XXXXXX	

NOTE.—If contract with the President for the period of Federal control provides for a higher or lower rate of interest than used in (d), computation of interest at such higher or lower rate should be substituted for the rates shown and provisions of contract should be stated here.

EXHIBIT D.—SCHEDULE 1.

Page —.

DEBITS AND CREDITS, IF ANY, ARISING FROM OPERATIONS OF ELECTRIC RAILWAYS  
ELIMINATED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (1) OF SUB-  
DIVISION (f) OF SECTION 209.

Item. (1)	March. (2)	April. (3)	May. (4)	June. (5)	July. (6)	August. (7)	Total. (8)
(The items (including entries for reserves) in this column should be stated by primary accounts the same as indicated for the similar column in Exhibit D, including the miles of road operated electrically and maintained by Respondent. NOTE.—If any lapovers are recorded subsequent to August 31, 1920, subject to elimination through this schedule, such items should not be included either in Schedule 7 or this schedule.)							

EXHIBIT D.—SCHEDULE 2.

Page —.

MILES OPERATED—ADJUSTMENTS AND BASIC DATA THEREFOR NECESSITATED BY  
PARAGRAPH (2) OF SUBDIVISION (f) OF SECTION 209.

	Miles.
1—Miles operated as of July 1, 1914.....	
2—Miles operated as of June 30, 1917.....	
3—Increase (or decrease).....	
4—Detailed explanation of increase (or decrease). (Show details here.)	
5—Miles operated as of March 1, 1920.....	
6—Increase (or decrease) between (2) and (5).....	
7—Detailed explanation of increase (or decrease). (Show details here.)	
8—Miles operated as of August 31, 1920.....	
9—Increase (or decrease) between (5) and (8).....	
10—Detailed explanation of increase (or decrease). (Show details here.)	
11—Average miles operated during test period as per item 13 on pages 2, 3, 4, or as case may be, of this schedule.....	
12—Average miles operated during guaranty period as per item 14 on pages 2, 3, 4, or as case may be, of this schedule.....	

NOTE.—The expression "Miles operated" as used in this schedule means the actual miles of first main track operated and maintained as of the dates shown.

## EXHIBIT D.—SCHEDULE 2.

Page —.

Items.		Average miles operated.	
(1)		(2)	
13—Average miles operated (as at close of each month) during test period.....			
14—Average miles operated (as at close of each month) during guaranty period.....			
Test period, month ending—	Miles.	Test period (contd.), month ending—	Miles.
July 31, 1914.....		July 31, 1916.....	
August 31, ".....		August 31, ".....	
September 30, ".....		September 30, ".....	
October 31, ".....		October 31, ".....	
November 30, ".....		November 30, ".....	
December 31, ".....		December 31, ".....	
January 31, 1915.....		January 31, 1917.....	
February 28, ".....		February 28, ".....	
March 31, ".....		March 31, ".....	
April 30, ".....		April 30, ".....	
May 31, ".....		May 31, ".....	
June 30, ".....		June 30, ".....	
July 31, ".....			
August 31, ".....			
September 30, ".....			
October 31, ".....			
November 30, ".....			
December 31, ".....			
January 31, 1916.....			
February 29, ".....			
March 31, ".....			
April 30, ".....			
May 31, ".....			
June 30, ".....			
		Total.....	
		Average (total divided by 36 to be stated opposite item 13).	
		Guaranty period, month ending—	Miles.
		March 31, 1920.....	
		April 30, ".....	
		May 31, ".....	
		June 30, ".....	
		July 31, ".....	
		August 31, ".....	
		Total.....	
		Average (total divided by 6 to be stated opposite item 14).	

## EXHIBIT D.—SCHEDULE 2.

Page —.

## MEMORANDUM OF ADJUSTMENTS.

EXHIBIT D.—SCHEDULE 3.

ADJUSTMENTS, IF ANY, FOR MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT UNDER PARAGRAPH (3) OF SUBDIVISION (f) OF SECTION 209.

	As claimed by Respondent.		Do not use these columns. These are for the use of the Commission.	
1—Amounts of expenditures or reserves (including lapovers) for maintenance charged to the primary accounts under the classification of operating revenues and expenses, issue of 1914, as reported in total in column (27) of Exhibit D:				
(a) Maintenance of Way and Structures.....		XXXX		XXXX
(b) Maintenance of Equipment.....		XXXX		XXXX
Total maintenance as charged.....	XXXX		XXXX	
2—Amounts to be fixed by the Interstate Commerce Commission for maintenance in accordance with paragraph (3) of subdivision (f) of section 209:				
Maintenance of Way and Structures and Maintenance of Equipment as per Exhibit E .....	XXXX		XXXX	
3—Amounts of maintenance disallowed includible in column (a), of main column (28), of last page of Exhibit D opposite item "Railway operating income (or deficit) as adjusted".	XXXX			XXXX

NOTE.—If item (2) above exceeds item (1), no adjustment will be required through item (3), as the amount actually expended or reserved will be allowed since the amount fixed by the Commission is a maximum only which may not be exceeded.

EXHIBIT D.—SCHEDULE 4.

Page —.

ANALYSIS OF RAILWAY TAX ACCRUALS INCLUDING LAPOVERS REPORTED IN SCHEDULES 7 HEREOF APPLICABLE TO THE GUARANTY PERIOD AND EXPLANATION OF BASES USED FOR SUCH ACCRUALS TOGETHER WITH ADJUSTMENT REPORTED IN SCHEDULE 14 HEREOF.

(a) State taxes paid and/or accrued: (Show each state separately and the amounts accrued applicable to the % guaranty period).....			XXX
Total state taxes paid and/or accrued.....		XXX	
(b) Federal taxes paid and/or accrued: Normal tax of 2%.....			XXX
(Detail all other Federal taxes).....			XXX
Total Federal taxes paid and/or accrued.....		XXX	
(c) All other taxes paid and/or accrued: (Details thereof).....			XXX
Total all other taxes paid and/or accrued.....		XXX	
d) Total railway tax accruals.....		XXX	
(e) Less—Taxes paid and/or accrued deductible under "Adjustments" in Exhibit D as per recapitulations in schedule 14.....			
(f) Net taxes paid and/or accrued applicable to guaranty period as per column (27) of Exhibit D.....			

NOTE.—On page 2 hereof explain fully bases of all tax accruals sufficiently to show that the amounts accrued during the guaranty and subsequent lapovers, if any, reported in schedule 7 hereof are properly includible.



EXHIBIT D.—SCHEDULE 5.

Page —.

CHARGES TO INCOME DURING THE GUARANTY PERIOD RELATING TO TRANSACTIONS OF OTHER PERIODS, SUBJECT TO ELIMINATION IN ACCORDANCE WITH PARAGRAPH (5) OF SUBDIVISION (f) OF SAID SECTION 209 AS RECAPITULATED IN SCHEDULE 15.

Item. (1)	Guaranty period.						
	March. (2)	April. (3)	May. (4)	June (5)	July. (6)	August. (7)	Total. (8)
(The items in this column should be stated by primary accounts the same as indicated for the similar column in Exhibit B.)							

EXHIBIT D.—SCHEDULE 6.

EXPLANATION AND ANALYSIS OF PRIMARY ACCOUNTS (OTHER THAN MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT) WHICH ARE APPARENTLY DISPROPORTIONATE OR UNREASONABLE AS PER RECAPITULATION IN SCHEDULE 15.

(Make a full analysis and explanation of the causes for any apparently abnormal increase or decrease in primary accounts of the guaranty period as compared with the test period which in the opinion of respondent may require such an explanation to satisfy the Commission that no elimination will be required under paragraph (5) of section 209 (f) of the Transportation Act, 1920.)

EXHIBIT D.—SCHEDULE 8.

Page —.

STATEMENT OF LAPOVERS FROM FEDERAL CONTROL PERIOD. (APPLIES ONLY TO CARRIERS UNDER FEDERAL CONTROL AT MIDNIGHT, FEBRUARY 29, 1920.)

Item. (1)	Items audited since March 1, 1920, applicable to the Federal control period.		Total. (4)
	Entered direct in records of the U. S. R. R. Administration or cleared thereto during the guaranty period. (2)	Entered direct in the corporate records but cleared since August 31, 1920, to records of the U. S. R. R. Administration as reported in schedule (5) hereof. (3)	
(The items in this column should be stated by primary accounts the same as indicated for the similar column in Exhibit D.)			

NOTE.—If all items audited since March 1, 1920, and entered in corporate records chargeable or creditable to the U. S. Railroad Administration have not been cleared to the books of the U. S. Railroad Administration, such items should be so cleared prior to rendering this return, and the amounts so cleared should be reported in column (3) hereof and in schedule (5) of Exhibit D.

EXHIBIT D.—SCHEDULE 9.

Page —.  
Section 1.

Item.	Operating reserves or suspense accounts created by accruals or entries since March 1, 1920.					Lapovers not affecting reserves as reported in col. (18a) of schedule 7 of Exhibit D.	Total audited lapovers, columns 5 and 7 this schedule.
	Balances as of August 31, 1920.	Adjustments as per column (18b) of schedule 7.	Total.	Audited since August 31, 1920, as per section 3 of schedule 7.	Balance unaudited subject to application of par. (b) of section 212 as fully covered in schedule 13.		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(The items in this account should be reflected by primary accounts when practicable or so subdivided as reflected in Exhibit D and in schedule 7.)							

NOTE 1.—Submit as section 2 of this schedule a separate statement, with columns (1), (2), (5), and (6), inclusive, only, for equalization reserves in maintenance of way and structures and maintenance of equipment created during the guaranty period, changing the headings of column (5) to read " Audited since August 31, 1920," and column 6 to read " Balance unaudited as of date of this return " and eliminating the words "and in schedule 7 " in the last line of remarks in column (1).

EXHIBIT D.—SCHEDULE 10.

BALANCES IN OPERATING RESERVES OR SUSPENSE ACCOUNTS CREATED PRIOR TO MARCH 1, 1920, AS AT MARCH 1, 1920, AND AUGUST 31, 1920.

(Name of suspense or reserve account as per ledger.)	Balances in operating reserves or suspense accounts March 1, 1920, other than those reported in schedule 9. Debit—Black. Credit—Red.	Audited since March 1, 1920, to and including August 31, 1920, applicable to reserves in column 2. Debit—Black. Credit—Red.	Balances in operating reserves or suspense accounts created prior to March 1, 1920, as at August 31, 1920. Debit—Black. Credit—Red.
(1)	(2)	(3)	(4)

I, ..... (Name of officer verifying this return) .....,  
..... (Title) ..... of the ..... company hereby  
certify that the items reported in column (3) of the above statement have not entered  
into nor form a part of the income (or deficit) of said .....  
company for the guaranty period as claimed in this return.

.....(Name) .....  
.....(Title).....

70 I. C. C.

EXHIBIT D—SCHEDULE 11.

Page —.

COMPARISON OF GUARANTY PERIOD WITH 1918, 1919, AND TEST PERIOD.

NOTE.—In columns (5) and (8), maintenance of way and structures and maintenance of equipment should be reported in totals and not by primary accounts.

EXHIBIT D.—SCHEDULE 12.

INCREASE IN OPERATING EXPENSES OF GUARANTY PERIOD DUE TO WAGE AWARD OF JULY 20, 1920, INCLUDING LAP OVERTS AND ESTIMATES, IF ANY, INCLUDED IN SCHEDULE 7, BUT LESS AMOUNTS ELIMINATED, IF ANY, IN SCHEDULE 1.

Item.	Amount.
Maintenance of Way and Structures.....	\$
Maintenance of Equipment.....	
Transportation Expenses.....	
All other operating expenses or income accounts composing standard return .....	

EXHIBIT D.—SCHEDULE 13.

STATEMENT OF AND BASES FOR ESTIMATES OF UNAUDITED ITEMS INCLUDED IN COLUMN 6 OF SCHEDULE 9, TAKING INTO CONSIDERATION THE TOTAL AMOUNT CHARGEABLE TO PRIMARY ACCOUNTS AFFECTED THEREBY IN EXHIBIT D AS MORE SPECIFICALLY SHOWN IN SCHEDULE 7 FOR CONSIDERATION BY THE INTERSTATE COMMERCE COMMISSION UNDER PARAGRAPH (b) OF SECTION 212.

.....  
.....  
.....  
.....

EXHIBIT D.—SCHEDULE 14.

Page —.

ADJUSTMENT OF "WAR TAXES" APPLICABLE TO THE GUARANTY PERIOD AND CORRECTION OF ACCOUNTING ERRORS AS EXPLAINED IN COLUMN 1 OF EXHIBIT D.

Primary accounts.		War taxes.	Correction of accounting errors.	Total (column 6, schedule 15).
No.	Title.			

EXHIBIT D.—SCHEDULE 15.

Page —.

RECAPITULATION OF DEBITS AND CREDITS, IF ANY, ARISING FROM OPERATION OF ELECTRIC RAILWAYS DURING THE GUARANTY PERIOD, CHARGES TO INCOME DURING THE GUARANTY PERIOD RELATING TO TRANSACTIONS OF OTHER PERIODS, DISPROPORTIONATE AND UNREASONABLE CHARGES, ESTIMATES OF DEFERRED DEBITS AND CREDITS UNDER PARAGRAPH (b) OF SECTION 212, AND ADJUSTMENT FOR "WAR TAXES" AND "CORRECTION OF ACCOUNTING ERRORS."

Item.	Schedules—					Total.
	1	5	6	13	14	
	(2)	(3)	(4)	(5)	(6)	
(1)						
(The items in this column should be stated by primary accounts the same as indicated for the similar column in Exhibit D.)						

## EXHIBIT E.—SCHEDULE 1.

Page —.

## DISTRIBUTION AND ANALYSIS OF MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT FOR ONE-SIXTH OF THE TEST PERIOD EXPENDITURES.

No.	Primary accounts.	Average six months of test period as per col- umn (k) of Exhibit B.	Deductions as shown in item 2 of Ex- hibit E.				Net labor and material used in mainte- nance of way and struc- tures and maintenance of equipment as per item 3 of Exhibit E.
			Deprecia- tion.	Insur- ance.	Retire- ments.	Total.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	<i>Maintenance of way and structures (including maintenance of equipment accounts 302 to 307, inclusive).</i>						
201	Superintendence.....						
202	Roadway maintenance.....						
203	Roadway—Depreciation.....						
204	Underground power tubes...						
205	Underground power tubes— Depreciation.....						
206	Tunnels and subways.....						
207	Tunnels and subways—De- preciation.....						
208	Bridges, trestles, and cul- verts.....						
209	Bridges, trestles, and cul- verts—Depreciation.....						
210	Elevated structures.....						
211	Elevated structures—Depre- ciation.....						
212	Ties.....						
213	Ties—Depreciation.....						
214	Rails.....						
215	Rails—Depreciation.....						
216	Other track material.....						
217	Other track material—De- preciation.....						
218	Ballast.....						
219	Ballast—Depreciation.....						
220	Track laying and surfacing..						
221	Right-of-way fences.....						
222	Right-of-way fences—Depre- ciation.....						
223	Snow and sand fences and snowsheds.....						
224	Snow and sand fences and snowsheds—Depreciation..						
225	Crossings and signals.....						
226	Crossings and signals—De- preciation.....						
227	Station and office buildings..						
228	Station and office buildings— Depreciation.....						
229	Roadway buildings.....						
230	Roadway buildings—Depre- ciation.....						
231	Water stations.....						
232	Water stations—Deprecia- tion.....						
233	Fuel stations.....						
234	Fuel stations—Depreciation..						
235	Shops and enginehouses.....						
236	Shops and enginehouses— Depreciation.....						
237	Grain elevators.....						
238	Grain elevators—Deprecia- tion.....						
239	Storage warehouses.....						
240	Storage warehouses—Depre- ciation.....						
241	Wharves and docks.....						
242	Wharves and docks—Depre- ciation.....						
243	Coal and ore wharves.....						

EXHIBIT E.—SCHEDULE 1.

DISTRIBUTION AND ANALYSIS OF MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT FOR ONE-SIXTH OF THE TEST PERIOD EXPENDITURES—Continued.

No.	Primary accounts.	Average six months of test period as per col- umn (k) of Exhibit B.	Deductions as shown in item 2 of Ex- hibit E.				Net labor and material used in mainte- nance of way and struc- tures and maintenance of equipment as per item 3 of Exhibit E.
			Deprecia- tion.	Insur- ance.	Retire- ments.	Total.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	<i>Maintenance of way and structures (including main- tenance of equipment ac- counts 302 to 307, inclu- sive)—Continued.</i>						
244	Coal and ore wharves—De- preciation.....						
245	Gas-producing plants.....						
246	Gas-producing plants—De- preciation.....						
247	Telegraph and telephonelines						
248	Telegraph and telephone lines—Depreciation.....						
249	Signals and interlockers.....						
250	Signals and interlockers— Depreciation.....						
251	Power-plant dams, canals, and pipe lines.....						
252	Power-plant dams, canals, and pipe lines—Deprecia- tion.....						
253	Power-plant buildings.....						
254	Power-plant buildings—De- preciation.....						
255	Power substation buildings..						
256	Power substation buildings— Depreciation.....						
257	Power-transmission systems.						
258	Power - transmission sys- tems—Depreciation.....						
259	Power-distribution systems						
260	Power-distributionsystems— Depreciation.....						
261	Power line poles and fixtures.						
262	Power line poles and fix- tures—Depreciation.....						
263	Underground conduits.....						
264	Underground conduits—De- preciation.....						
265	Miscellaneous structures.....						
266	Miscellaneous structures— Depreciation.....						
267	Paving.....						
268	Paving—Depreciation.....						
269	Roadway machines.....						
270	Roadway machines—Depre- ciation.....						
271	Small tools and supplies.....						
272	Removing snow, ice, and sand.....						
273	Assessments for public im- provements.....						
274	Injuries to persons.....						
275	Insurance.....						
276	Stationery and printing.....						
277	Other expenses.....						
278	Maintaining joint tracks, yards, and other facilities— Dr.....						
279	Maintaining joint tracks, yards, and other facilities— Cr.....						
302	Shop machinery.....						
303	Shop machinery—Deprecia- tion.....						
304	Power-plant machinery.....						
305	Power-plant machinery—De- preciation.....						
306	Power-substation apparatus.						
307	Power - substation appa- ratus—Depreciation.....						
	<b>Total maintenance of way and structures..</b>						

EXHIBIT E.—SCHEDULE 1.

Page —.

DISTRIBUTION AND ANALYSIS OF MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT FOR ONE-SIXTH OF THE TEST PERIOD EXPENDITURES.

Primary accounts.		Average six months of test period as per column (k) of Exhibit B.	Deductions as shown in item 2 of Exhibit E.				Net labor and material used in mainte- nance of way and struc- tures and maintenance of equipment as per item 3 of Exhibit E.
No.	Title.		Depre- ciation.	Insur- ance.	Retire- ments.	Total.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	<i>Maintenance of equipment (excluding accounts 302 to 307, inclusive).</i>						
301	Superintendence.....						
308	Steam locomotives—Repairs.						
309	Steam locomotives—Depre- ciation.....						
310	Steam locomotives—Retire- ments.....						
311	Other locomotives—Repairs.						
312	Other locomotives—Depre- ciation.....						
313	Other locomotives—Retire- ments.....						
314	Freight-train cars—Repairs..						
315	Freight-train cars—Depre- ciation.....						
316	Freight-train cars—Retire- ments.....						
317	Passenger-train cars—Repairs						
318	Passenger-train cars—Depre- ciation.....						
319	Passenger-train cars—Retire- ments.....						
320	Motor equipment of cars— Repairs.....						
321	Motor equipment of cars— Depreciation.....						
322	Motor equipment of cars— Retirements.....						
323	Floating equipment—Re- pairs.....						
324	Floating equipment—Depre- ciation.....						
325	Floating equipment—Re- tirements.....						
326	Work equipment—Repairs..						
327	Work equipment—Deprecla- tion.....						
328	Work equipment—Retire- ments.....						
329	Miscellaneous equipment— Repairs.....						
330	Miscellaneous equipment— Depreciation.....						
331	Miscellaneous equipment— Retirements.....						
332	Injuries to persons.....						
333	Insurance.....						
334	Stationery and printing.....						
335	Other expenses.....						
336	Maintaining joint equipment at terminals—Dr.....						
337	Maintaining joint equipment at terminals—Cr.....						
	Total maintenance of equipment.....						
	Grand total.....						



EXHIBIT E.—SCHEDULE 2.

Page —.

ADJUSTMENT FOR DIFFERENCES IN AMOUNT OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Way and Structures.

Two-thirds of the expenses for maintenance of way and structures are accepted as varying as the amount of property maintained.  
The method for determining adjustment in allowance for maintenance of way and structures expenses for differences in amount of property maintained in the test period and in the guaranty period is based on a comparison of the average balance in account "Road and Equipment—Road" for the respective periods after reducing the sum representing the difference between the average capital investment in the guaranty period and in the test period to a basis comparable with the average purchasing value of the dollar during the test period, which is taken as one or 100 per cent.

Average Investment, Account "Road and Equipment—Road."

Item.	Test period.	Amount.
1	July 31, 1914.....	\$
2	August 31, 1914.....	
3	September 30, 1914.....	
4	October 31, 1914.....	
5	November 30, 1914.....	
6	December 31, 1914.....	
7	January 31, 1915.....	
8	February 28, 1915.....	
9	March 31, 1915.....	
10	April 30, 1915.....	
11	May 31, 1915.....	
12	June 30, 1915.....	
13	July 31, 1915.....	
14	August 31, 1915.....	
15	September 30, 1915.....	
16	October 31, 1915.....	
17	November 30, 1915.....	
18	December 31, 1915.....	
19	January 31, 1916.....	
20	February 29, 1916.....	
21	March 31, 1916.....	
22	April 30, 1916.....	
23	May 31, 1916.....	
24	June 30, 1916.....	
25	July 31, 1916.....	
26	August 31, 1916.....	
27	September 30, 1916.....	
28	October 31, 1916.....	
29	November 30, 1916.....	
30	December 31, 1916.....	
31	January 31, 1917.....	
32	February 28, 1917.....	
33	March 31, 1917.....	
34	April 30, 1917.....	
35	May 31, 1917.....	
36	June 30, 1917.....	
37	Total.....	\$
38	Test period average.....	\$

Item.	Guaranty period.	Amount.
39	March 31, 1920.....	\$
40	April 30, 1920.....	
41	May 31, 1920.....	
42	June 30, 1920.....	
43	July 31, 1920.....	
44	August 31, 1920.....	
45	Total.....	\$
46	Guaranty period average.....	\$

EXHIBIT E.—SCHEDULE 2.

Page —.

ADJUSTMENT FOR DIFFERENCES IN AMOUNT OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

*Average Investment, Account “Road and Equipment—Road”—Continued.*

- (38) Average investment test period; item (37) divided by 36..... \$
- (46) Average investment guaranty period; item (45) divided by 6..... \$
- (47) Increase; item (46) minus item (38)..... \$
- (48) Decrease; item (38) minus item (46)..... \$
- (49) General factor for equation for changes in wages and cost of materials.....
- (50) Equalizing factor; [1 plus item (49)] divided by 2.....
- (51) Comparable increase; item (47) divided by item (50)..... \$

*Adjustment factor:*

- (52) In case of increase;  $\frac{2}{3}$  of quotient of item (51) divided by item (38)..
- (53) In case of decrease;  $\frac{2}{3}$  of quotient of item (48) divided by item (38).
- (54) Maintenance of way and structures expense;  $\frac{1}{3}$  test period total, item (5), column (3), Exhibit E..... \$

*Adjustment:*

- (55) In case of increase; item (54) multiplied by item (52), to be carried to item 6, column (3), page 1, Exhibit E..... \$
- (56) In case of decrease; item (54) multiplied by item (53), to be carried to item 6, column (3), Exhibit E..... \$

Alternate.

If, because of time or times at which investments were added, any carrier believes the above method will be inequitable to it, such carrier may separate the time between the end of the test period and the beginning of the guaranty period into intermediate periods and may then compute the allowance for each period, in which event it will be necessary for the carrier to develop, for each period considered, factors corresponding to that in item (49).

## EXHIBIT E.—SCHEDULE 2.

Page —.

## ADJUSTMENT FOR DIFFERENCES IN AMOUNT OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

*Maintenance of Equipment.*

## Steam Locomotives.

One hundred per cent of maintenance expenses of steam locomotives is accepted as varying as the amount of property maintained. The unit of property for comparison is the ton of locomotive light weight exclusive of tender. The measure of the difference in amount of property is the ratio of the difference between the tons of owned or leased locomotives maintained in actual service in the periods under consideration to the tons of owned or leased locomotives maintained in actual service in the test period, exclusive of units white leaded, condemned, awaiting condemnation or disposition.

- (1) Average aggregate tons of steam locomotives maintained during guaranty period.....
- (2) Average aggregate tons of steam locomotives maintained during the test period.....
- (3) Difference, item (1) minus item (2).....
- (4) Adjustment factor, item (3) divided by item (2).....
- (5) Maintenance of equipment expense—Steam locomotives— $\frac{1}{2}$  test period total from item 5, column (4), Exhibit E..... \$
- (6) Adjustment for difference in amount of property, item (5) multiplied by item (4), to be carried to item 6, column (4), Exhibit E..... \$

## Other Locomotives.

The same general statement made under "Steam locomotives" applies to "Other locomotives."

- (1) Average aggregate tons of other locomotives maintained during guaranty period.....
- (2) Average aggregate tons of other locomotives maintained during test period.....
- (3) Difference, item (1) minus item (2).....
- (4) Adjustment factor, item (3) divided by item (2).....
- (5) Maintenance of equipment expense—Other locomotives— $\frac{1}{2}$  test period total from item 5, column (5), Exhibit E..... \$
- (6) Adjustment for difference in amount of property item (5) multiplied by item (4), to be carried to item 6, column (5), Exhibit E..... \$

## Freight-Train Cars.

One hundred per cent of maintenance expenses of freight-train cars is accepted as varying as the amount of property maintained. The unit of property for comparison is the ton carrying capacity. The measure of the difference in amount of property is the ratio of the difference between the tons carrying-capacity of owned and leased freight train cars in actual service in the period under consideration to the tons carrying-capacity of owned and leased freight train cars in actual service in the test period, excluding cars condemned, cars awaiting condemnation, and cars awaiting disposition, as indicated in annual report to I. C. C., schedule 417, showing active cars.

- (1) Average aggregate tons carrying-capacity, guaranty period.....
- (2) Average aggregate tons carrying-capacity, test period.....
- (3) Difference item (1) minus item (2).....
- (4) Adjustment factor item (3) divided by item (2).....
- (5) Maintenance of equipment expense—Freight-train cars— $\frac{1}{2}$  test period total from item 5, column (6), Exhibit E..... \$
- (6) Adjustment for difference in amount of property, item (5) multiplied by item (4), to be carried to item 6, column (6), Exhibit E.... \$

EXHIBIT E.—SCHEDULE 2.

Page —.

ADJUSTMENT FOR DIFFERENCES IN AMOUNT OF PROPERTY MAINTAINED—  
MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

*Maintenance of Equipment—Continued.*

Passenger-train Cars.

One hundred per cent of maintenance expenses of passenger train cars is accepted as varying as the amount of property maintained. The unit of property for comparison is the ton of passenger-train car. The measure of the difference in amount of property is the ratio of the difference between the tons of owned and leased passenger-train cars maintained in actual service in the periods under consideration to the tons of owned and leased passenger-train cars maintained in actual service in the test period, excluding cars condemned, awaiting condemnation, and cars awaiting disposition.

- (1) Average aggregate weight in tons guaranty period.....
- (2) Average aggregate weight in tons test period.....
- (3) Difference, item (1) minus item (2).....
- (4) Adjustment factor, item (3) divided by item (2).....
- (5) Maintenance of equipment expense—Passenger-train cars— $\frac{1}{2}$  test  
period total from item 5, column (7), Exhibit E..... \$
- (6) Adjustment for difference in amount of property, item (5) multiplied  
by item (4), to be carried to item 6, column (7), Exhibit E..... \$

Motor Equipment of Cars.

If separation is made between freight-train cars, passenger-train cars, or work equipment and motor equipment of cars, in the adjustment for difference in use, then, in consideration of adjustment for amount of property, freight-train cars, passenger-train cars, or work equipment, must be similarly distinguished and separately computed. Adjust motor equipment expenses for difference in amount of property as set out for freight-train cars, passenger-train cars, or work equipment, considering only those units having motor equipment. The result to be carried to item 6, column (8), Exhibit E.

Floating Equipment.

One hundred per cent of maintenance expenses of floating equipment is accepted as varying as the amount of property maintained. The unit of property for comparison is the gross weight ton. This unit is combined with the test period maintenance expenses per gross weight ton. The measure of the amount of property is the ratio of the difference of the aggregate maintenance expense for the owned and leased gross weight tons of the several classes of floating equipment of the guaranty period at the test period prices for like classes and the average aggregate maintenance expense of the test period computed in the following manner:

Amount of Property.

Description of craft.  (1)	Test period.			Guaranty period.	
	Average aggregate gross weight tons maintained.  (2)	Maintenance expense.		Average aggregate gross weight tons maintained.  (5)	Main-tenance expense at test period cost (4)×(5).  (6)
		One-sixth test period total.  (3)	Per gross weight ton (3)+(2).  (4)		
(1) Ferryboats.....					
(2) Tugboats, harbor.....					
(3) Tugboats, coastwise.....					
(4) Steam lighters.....					
(5) Steam hoisting barges.....					
(6) Deck scows.....					
(7) Covered barges.....					
(8) Grain boats.....					
(9) Coal boats, harbor.....					
(10) Coal boats, coastwise.....					
(11) Dredges.....					
(12) Mud scows.....					
(13) Pile drivers.....					
(14) Car floats.....					
(15) Miscellaneous.....					
.....					
.....					
Total.....	XXXXXX		XXXXX	XXXXX	

EXHIBIT E--SCHEDULE 2.

Page --.

ADJUSTMENT FOR DIFFERENCES IN AMOUNT OF PROPERTY MAINTAINED—  
MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Equipment—Continued.

Floating Equipment—Continued.

- (1) Difference—total column (6) minus total column (3) above table.....
- (2) Adjustment factor, item (1) divided by total column (3) above table..
- (3) Maintenance of equipment expense—Floating equipment— $\frac{1}{6}$  test period total from item 5, column (9), Exhibit E..... \$
- (4) Adjustment for difference in amount of property, item (3) multiplied by item (2), to be carried to item 6, column (9), Exhibit E..... \$

Work Equipment.

- (1) Average total number of equivalent units maintained, guaranty period, based on the weights given in table below.....
- (2) Average total number of equivalent units maintained, test period, based on the weights given in table below.....
- (3) Difference, item (1) minus item (2).....
- (4) Adjustment factor, item (3) divided by item (2).....
- (5) Maintenance of equipment expense—Work equipment— $\frac{1}{6}$  test period total from item 5, column (10), Exhibit E..... \$
- (6) Adjustment for difference in amount of property, item (5) multiplied by item (4), to be carried to item 6, column (10), Exhibit E..... \$

Table—Freight-train cars taken as unity.

Office and pay car.....	5	Air-brake instruction car.....	10
Ballast car.....	2	Pile driver.....	10
Dump car.....	1	Snow plow.....	5
Steam shovel.....	10	Cabin car.....	2
Wrecking crane.....	10	Ledgerwood.....	5
Water car.....	1	Ballast plow.....	1
Cinder car.....	1	Spreader.....	1
Tool car.....	1	Ice flanger.....	$\frac{1}{2}$
Boarding car.....	$\frac{1}{2}$	Wrecking tender.....	1
Miscellaneous and other cars.....	1		

Alternate.

When the information required in (1) and (2) above is not obtainable, or the data is otherwise indefinite, adjustment for amount of property will be made by applying to item 5, column (10), Exhibit E, the amount factor from the Maintenance of Way and Structures group, item (52) or item (53), as the case may be, from schedule 2, page 2, Exhibit E, the result to be carried to item 6, column (10), Exhibit E.

EXHIBIT E.—SCHEDULE 2.

Page —.

ADJUSTMENT FOR DIFFERENCES IN AMOUNT OF PROPERTY MAINTAINED—  
MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

*Maintenance of Equipment—Continued.*

Miscellaneous Equipment.

Differences in amount of miscellaneous equipment maintained will be determined by comparison of investments in such equipment in the periods under consideration. The measure of difference in amount of property maintained is the ratio of the differences in investment to the investment of the test period, after the difference in investment has been reduced to a basis comparable to the purchasing power of the dollar at the center of the test period, which is taken as one or 100 per cent.

- (1) Average aggregate investment in Miscellaneous Equipment, guaranty period..... \$
- (2) Average aggregate investment in Miscellaneous Equipment, test period..... \$
- Difference—
- (3) In case of increase; item (1) minus item (2)..... \$
- (4) In case of decrease; item (2) minus item (1)..... \$
- (5) General factor for changes in wages and cost of materials.....
- (6) Equalizing factor; [1 plus item (5)] divided by 2.....
- (7) Comparable increase; item (3) divided by item (6)..... \$

*Adjustment factor:*

- (8) In case of increase; 70 per cent of quotient of item (7) divided by item (2).....
- (9) In case of decrease; 70 per cent of quotient of item (4) divided by item (2).....
- (10) Maintenance of equipment expenses—Miscellaneous Equipment— $\frac{1}{6}$  test period total, from item 5, column (11), Exhibit E..... \$

*Adjustment:*

- (11) In case of increase; item (10) multiplied by item (8), to be carried to item 6, column (11), Exhibit E..... \$
- (12) In case of decrease; item (10) multiplied by item (9), to be carried to item 6, column (11), Exhibit E..... \$



EXHIBIT E.—SCHEDULE 3.

Page —.

ADJUSTMENT FOR DIFFERENCES IN USE OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Way and Structures.

One-third of the expenses for Maintenance of Way and Structures is accepted as varying with use. It is assumed that the use is reflected by the tons of traffic moving over the line and the difference in use is measured by the ratio of the difference in gross ton-miles of the periods under consideration to the gross ton-miles of the test period. The gross ton-miles and adjustment are computed as follows:

Item.	Class of traffic.	Gross ton miles.	
		Test period.	Guaranty period.
		(a)	(b)
1	Freight-train cars.....		
2	Passenger-train cars.....		
3	Freight locomotives (actual multiplied by 2).....		
4	Passenger locomotives (actual multiplied by 3).....		
5	Total all classes.....		
6	One-sixth ( $\frac{1}{6}$ ) test period total [ $\frac{1}{6}$ total in col. (a)].....		
7	Guaranty period total in col. (b).....		
8	Difference, item 7 minus item 6.....		
9	Ratio, item 8 divided by item 6.....		
10	Adjustment factor, $\frac{1}{3}$ of item 9.....		
11	Maintenance of way and structures expenses— $\frac{1}{3}$ test period total from item 5, column (3), page 1, Exhibit E.....		
12	Adjustment for amount of property, item (55) or item (56), as the case may be, page 2, schedule 2, Exhibit E.....		
13	Maintenance of way and structures expense adjusted for difference in amount of property item (11) plus or minus item (12).....		
14	Adjustment for differences in use of property, item (13) multiplied by item (10) [to be carried to item 8, column 3, Exhibit E].....		

Mixed-train locomotive ton-miles should be divided between passenger and freight on the basis of car-miles in each class of service.

Special-train locomotive ton-miles should be classed as passenger.

Switch-locomotive ton-miles should be omitted.

Where actual ton-mile information is not available, reasonably accurate results may be obtained as follows:

Gross ton-miles freight-train cars: Multiply the average weight of freight cars by the number of freight-train car-miles and add the net freight ton-miles. If the average weight of freight cars is not known, it may be closely approximated by using one-half average capacity.

Gross ton-miles passenger-train cars: Multiply the average weight of passenger cars of each class by the car-miles of said class.

Gross ton-miles locomotives: Multiply the average weight of locomotive and tender by the locomotive miles for passenger service and for freight service. The classification of locomotives as between passenger and freight may be used as a basis for obtaining passenger-locomotive ton-miles and freight-locomotive ton-miles.

For switching and terminal roads where gross ton-mile statistics are not available, the relative use may be measured by the number of cars handled in the test and guaranty periods.

## EXHIBIT E.—SCHEDULE 3.

Page —.

## ADJUSTMENT FOR DIFFERENCES IN USE OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

*Maintenance of Way and Structures—Continued.*

In case "the cars handled" is used as a basis of measure, the carrier must state definitely and in detail how the cars are counted and accompany this exhibit by a verified statement of a responsible officer having knowledge of such matters, that the cars were counted in the same way in the respective periods and that "a car handled" represents the same movement of car in each period.

For other roads where gross ton-mile statistics are not available it is suggested that the carrier recommend to the Interstate Commerce Commission the unit of use which it thinks best reflects the relative use between the test and guaranty periods. In all cases the carrier must state the method used in computing gross ton-miles and must furnish the supporting statistics immediately following the tabulation at the head of this exhibit.

*Maintenance of equipment.*

## Steam Locomotives.

Eighty per cent of maintenance expense of steam locomotives is accepted as varying as use. The unit of measure of use is the locomotive ton-miles per ton of locomotive maintained in actual service. The measure of the difference in use is the ratio of the difference in locomotive ton-miles per ton of locomotive in the respective periods to the locomotive ton-miles in the test period. The locomotive ton-miles are obtained by multiplying the weight of the locomotive (exclusive of tenders) by the miles made by each class of locomotives of uniform weight.

- (1) Average aggregate tons of owned or leased steam locomotives maintained in actual service, guaranty period, from item (1), page 3, schedule 2, Exhibit E. ....
- (2) Average aggregate tons of owned or leased steam locomotives maintained in actual service, test period, from item (2), page 3, schedule 2, Exhibit E. ....
- (3) Locomotive ton-miles of steam locomotives, guaranty period. ....
- (4) Locomotive ton-miles of steam locomotives,  $\frac{1}{2}$  test period total. ....
- (5) Locomotive ton-miles per ton of steam locomotive, guaranty period, item (3) divided by item (1). ....
- (6) Locomotive ton-miles per ton of steam locomotive,  $\frac{1}{2}$  test period, total, item (4) divided by item (2). ....
- (7) Difference, item (5) minus item (6). ....
- (8) Ratio, item (7) divided by item (6). ....
- (9) Adjustment factor, 80 per cent of item (8). ....
- (10) Maintenance of equipment expense—Steam locomotives,  $\frac{1}{2}$  test period total, item 5, column (4), page 1. Exhibit E. .... \$
- (11) Adjustment for difference in amount of property, item (6), page 3, schedule 2, Exhibit E, under "Steam locomotives" .... \$
- (12) Sum or difference, item (10) and item (11). .... \$
- (13) Adjustment for difference in use of property, item (12) multiplied by item (9) to be carried to item (8), column (4) of Exhibit E. .... \$

70 I. C. C.

EXHIBIT E.—SCHEDULE 3.

Page —.

ADJUSTMENT FOR DIFFERENCES IN USE OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Equipment—Continued.

Other Locomotives.

The general statement under "Steam locomotives" is applicable to "Other locomotives."

- (1) Average aggregate tons of owned or leased other locomotives maintained in actual service, guaranty period, from "Other locomotives" item (1), page 3, schedule 2, Exhibit E.....
- (2) Average aggregate tons of owned or leased other locomotives maintained in actual service, test period, from "Other locomotives," item (2), page 3, schedule 2, Exhibit E.....
- (3) Locomotive ton-miles of other locomotives, guaranty period.....
- (4) Locomotive ton-miles of other locomotives,  $\frac{1}{2}$  test period total.....
- (5) Locomotive ton-miles per ton of other locomotives, guaranty period, item (3) divided by item (1).....
- (6) Locomotive ton-miles per ton of other locomotives,  $\frac{1}{2}$  test period total, item (4) divided by item (2).....
- (7) Difference, item (5) minus item (6).....
- (8) Ratio, item (7) divided by item (6).....
- (9) Adjustment factor, 80 per cent of item (8).....?
- (10) Maintenance of equipment expense (Other locomotives),  $\frac{1}{2}$  test period total, item 5, column (5), Exhibit E..... \$
- (11) Adjustment for difference in amount of property, item (6), page 3, schedule 2, Exhibit E (Other locomotives)..... \$
- (12) Sum or difference, item (10) and item (11) ..... \$
- (13) Adjustment for difference in use of property, item (12) multiplied by item (9), to be carried to item (8), column (5), of Exhibit E.....

Freight-Train Cars.

Sixty per cent of the maintenance expense of freight-train cars is accepted as varying as use. The unit of measure of use is the car-miles per car. The measure of difference in use is the ratio of the difference in car-miles per car of owned cars in the respective periods to the car-miles per car of owned cars in the test period. Car-miles per car are obtained as follows: Assign to owned cars on line the average car-miles per car on line, and assign to owned cars off line the average car-miles per car of the country at large. Owned cars include owned and leased cars maintained in actual service, excluding cars condemned, cars awaiting condemnation, and cars awaiting disposition.

EXHIBIT E.—SCHEDULE 3.

Page —.

ADJUSTMENT FOR DIFFERENCES IN USE OF PROPERTY MAINTAINED—MAINTENANCE  
OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Equipment—Continued.

Freight-Train Cars—Continued.

(1) Average number of freight-train cars on line, guaranty period.....	
(2) Average number of freight-train cars on line, test period.....	
(3) Car-miles, guaranty period.....	
(4) Car-miles, 1/6 test period total.....	
(5) Car-miles per car on line, guaranty period, item (3) divided by item (1)	
(6) Car-miles per car on line, test period, item 4, divided by item (2).....	
(7) Car-miles per car, country at large, guaranty period.....	4, 686
(8) Car-miles per car, country at large, test period.....	4, 739
(9) Average number of owned freight-train cars, guaranty period.....	
(10) Average number of owned freight-train cars used on line, guaranty period.....	
(11) Average number of owned freight-train cars used off line, guaranty period, item (9) minus item (10).....	
(12) Car-miles owned cars on line, guaranty period, item (10) multiplied by item (5).....	
(13) Car-miles owned cars off line, guaranty period, item (11) multiplied by item (7).....	
(14) Car-miles all owned cars, guaranty period, item (12) plus item (13)....	
(15) Car-miles per owned car, guaranty period, item (14) divided by item (9).....	
(16) Average number of owned freight-train cars, test period.....	
(17) Average number of owned freight-train cars used on line, test period..	
(18) Average number of owned freight-train cars used off line, test period, item (16) minus item (17).....	
(19) Car-miles owned cars on line, test period, item (17) multiplied by item (6).....	
(20) Car-miles owned cars off line, test period, item (18) multiplied by item (8).....	
(21) Car-miles all owned cars, test period, item (19) plus item (20).....	
(22) Car-miles per owned car, test period, item (21) divided by item (16)..	
(23) Difference, item (15) minus item (22) .....	
(24) Ratio, item (23) divided by item (22).....	
(25) Adjustment factor, 60 per cent of item (24).....	
(26) Maintenance of equipment expense (Freight-train cars), 1/6 test period total, from item 5, column (6), Exhibit E .....	
(27) Adjustment for difference in amount of property, item (6), page 3, schedule 2, Exhibit E (Freight-train cars).....	\$
(28) Sum or difference of item (26) and item (27).....	\$
(29) Adjustment for difference in use of property, item (28) multiplied by item (25), to be carried to item 8, column (6), Exhibit E.....	\$

EXHIBIT E.—SCHEDULE 3.

Page —.

ADJUSTMENT FOR DIFFERENCES IN USE OF PROPERTY MAINTAINED—MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Equipment—Continued.

Sixty per cent of the maintenance expenses of passenger-train cars is accepted as varying as use. The unit of measure of use is the car ton-miles per ton of car. The measure of difference in use is the ratio of the difference in car ton-miles per ton owned and leased cars in the respective periods to the car ton-miles per ton of owned and leased cars in the test period. The passenger train car ton-miles are obtained by multiplying the weight in tons of the car by the miles made by each class of car of uniform weight. Pullman cars are excluded, except as maintenance of such cars is affected by contract obligations, in which case computations for differences in use o Pullman cars must be separately made and submitted.

- (1) Average aggregate weight in tons of owned and leased passenger train cars maintained in actual service, guaranty period, item (1), page 4, schedule 2, Exhibit E (Passenger train cars).....
- (2) Average aggregate weight in tons of owned and leased passenger-train cars maintained in actual service, test period, item (2), page 4, schedule 2, Exhibit E (Passenger-train cars).....
- (3) Passenger-train car ton-miles made by owned and leased passenger-train cars maintained in actual service, guaranty period.....
- (4) Car ton-miles per ton, guaranty period, item (3) divided by item (1)..
- (5) One-sixth of total passenger train car ton-miles made by owned and leased passenger train cars maintained in actual service, test period.
- (6) Car ton-miles per ton, test period, item (5) divided by item (2).....
- (7) Difference, item (4) minus item (6) .....
- (8) Ratio, item (7) divided by item (6).....
- (9) Adjustment factor, 60 per cent of item (8).....
- (10) Maintenance of equipment expense (Passenger-train cars),  $\frac{1}{6}$  test period total, from item 5, column (7), Exhibit E ..... \$
- (11) Adjustment for difference in amount of property, from item (6), page 4, schedule 2, Exhibit E (Passenger-train cars)..... \$
- (12) Sum or difference of item (10) and item (11)..... \$
- (13) Adjustment for difference in use of property, item (12) multiplied by item (9), to be carried to item 8, column (7), of Exhibit E..... \$

ALTERNATE.

If the weight of passenger-train cars, or the miles of travel of the several classes of passenger-train cars, or both, is unascertainable, the passenger-train car-miles per passenger car will be accepted as the unit for the measure of the difference in use, in which case the measure of the difference in use is the ratio of the difference in car-miles per car of owned and leased cars in the respective periods to the car-miles per car of owned and leased cars in the test period. The computations will be made as set out above but with car-miles substituted for car ton-miles, cars for weight in tons, and car-miles per car for car ton-miles per car.

Motor Equipment of Cars.

If separated from passenger-train cars, freight-train cars, or work-train cars, adjust by use of units which will fit the specific case on the same theory as shown for passenger-train cars, freight-train cars, or work equipment, as the case may be, considering only those units having motor equipment. Carry result to item 8, column (8), Exhibit E.

EXHIBIT E.—SCHEDULE 3.

Page —.

ADJUSTMENT FOR DIFFERENCES IN USE OF PROPERTY MAINTAINED—MAINTENANCE  
OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT.

Maintenance of Equipment—Continued.

Floating Equipment.

No adjustment for difference in use of floating equipment.

Work Equipment.

It is assumed that the use of work equipment will follow the use made of way and structures.

- (1) Adjustment factor, item (10), page 1, schedule 3, Exhibit E.....
- (2) Maintenance of equipment expense (Work equipment),  $\frac{1}{4}$  test period .  
total, item 5, column (10), Exhibit E (Work equipment)..... \$
- (3) Adjustment for difference in amount of property, item (6), page 5,  
schedule 2, Exhibit E, or item (1) of alternate method (Work equip-  
ment)..... \$
- (4) Sum or difference of item (2) and item (3)..... \$
- (5) Adjustment for difference in use of property, item (4) multiplied by  
item (1), to be carried to item (8), column (10), Exhibit E..... \$

Miscellaneous Equipment.

No adjustment for difference in use will be made for miscellaneous equipment.

EXHIBIT E.—SCHEDULE 4.

DATA IN SUPPORT OF RESPONDENT'S CLAIM AS TO THE FACTOR REPRESENTING CHANGES IN THE GENERAL LEVELS OF THE COST OF MATERIAL AND LABOR AS BETWEEN THE TEST AND GUARANTY PERIODS WITHIN THE TERRITORY IN WHICH THE LINES OF RAILWAY OF RESPONDENT ARE LOCATED.

.....

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EXHIBIT E.—SCHEDULE 5.

Page —.

TABLE 1.—ASCERTAINMENT OF AMOUNT TO BE FIXED BY THE INTERSTATE COMMERCE COMMISSION AS DEPRECIATION OF PROPERTY INCLUDED IN MAINTENANCE OF WAY AND STRUCTURES AND MAINTENANCE OF EQUIPMENT ACCOUNTS.

Accounts for which depreciation was accrued.		Test period average.			Guaranty period average.			Excess depreciation charged.		Depreciation allowed. (Item No. 12-1 of Exhibit E.)
No.	Title.	Investment.	Average rate.	Depreciation accrued.	Investment.	Average rate.	Depreciation accrued.	Supporting sheet No. —.	Amount.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

NOTE.—Average rate to be ascertained on page 2 and succeeding pages hereof, to the number necessary, and in the manner indicated. Make separate supporting sheets for each account, the page number of which include in column (9) hereof.



EXHIBIT E.—SCHEDULE 5.  
Page —.

ASCERTAINMENT OF ALLOWANCE FOR DEPRECIATION FOR ACCOUNT No. —, (TITLE OF ACCOUNT), ON PAGE 1 HEREOF.

Test period average.					Guaranty period.				
Line No. (1)	Month and year as entered on books. (2)	Investment. (3)	Rate actually charged. (4)	Depreciation accrued. (5)	Month as entered on books. (7)	Investment. (8)	Rate actually charged. (9)	Depreciation accrued. (10)	
1	July, 1914.....				March, 1920.....				
2	August, 1914.....				April, 1920.....				
3	September, 1914.....				May, 1920.....				
4	October, 1914.....				June, 1920.....				
5	November, 1914.....				July, 1920.....				
6	December, 1914.....				August, 1920.....				
7	January, 1915.....				Total.....		x x x x x		
8	February, 1915.....				Average total (divided by 6).....				
9	March, 1915.....								
10	April, 1915.....								
11	May, 1915.....								
12	June, 1915.....								
13	July, 1915.....								
14	August, 1915.....								
15	September, 1915.....								
16	October, 1915.....								
17	November, 1915.....								
18	December, 1915.....								
19	January, 1916.....								
20	February, 1916.....								
21	March, 1916.....								
22	April, 1916.....								
23	May, 1916.....								
24	June, 1916.....								
25	July, 1916.....								
26	August, 1916.....								
27	September, 1916.....								
28	October, 1916.....								
29	November, 1916.....								
30	December, 1916.....								
31	January, 1917.....								
32	February, 1917.....								
33	March, 1917.....								
34	April, 1917.....								
35	May, 1917.....								
36	June, 1917.....								
37	Total.....		x x x x x						
38	Average (total divided by 36).....								

ADJUSTMENTS AS TO DEPRECIATION.

9	Average rate in guaranty period (line 8 in column (9)).....	
10	Average rate in test period (line 38 in column (4)).....	
11	Difference (line 9 minus line 10).....	
12	Average investment of guaranty period (line 8 column (8)).....	
13	Excess depreciation charged (line 12 × line 11).....	

NOTE 1.—Rates of depreciation (averages on line 38 for the test period and line 8 for the guaranty period) should be shown to four decimals when not equalized at a lesser number and should uniformly be so stated on lines 9 and 10 under "Adjustments as to depreciation."

NOTE 2.—A separate sheet should be prepared for each account for which depreciation was accrued, as shown on page 1 hereof.

## FINANCE DOCKET No. 1546.

## IN THE MATTER OF THE APPLICATION OF THE LOUISVILLE &amp; NASHVILLE RAILROAD COMPANY FOR AUTHORITY TO ISSUE SECURITIES.

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*Submitted November 5, 1921. Decided December 17, 1921.*

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1. Authority granted to issue, by selling at not less than 96 per cent of par, and accrued interest, \$12,753,000 of first and refunding mortgage 5½ per cent gold bonds, series A.
2. Authority granted to procure the authentication and delivery by the trustee of \$15,862,000 of first and refunding mortgage 5½ per cent gold bonds, series A.
3. Consideration of other features of the application deferred.

*E. S. Jouett* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The company above named, a common carrier by railroad subject to the interstate commerce act, has duly applied for an order under section 20a of that act authorizing it to issue certain securities, including \$28,615,000 of its first and refunding mortgage 5½ per cent gold bonds, series A, hereinafter called series-A bonds. It seeks authority to sell at 96 per cent of par, and accrued interest, \$12,753,000 of these series-A bonds and to procure the authentication and delivery to it by the trustee under the mortgage by which such bonds will be secured, of the remaining \$15,862,000 thereof. This report, and the order to be entered thereon, will be confined to the proposed issues of the series-A bonds. Consideration of the other matters to which the application relates will be held in abeyance.

The applicant has an authorized capital stock of \$125,000,000, divided into 1,250,000 shares of the par value of \$100 each, of which 720,000 shares, aggregating \$72,000,000 in par value, are in the hands of the public. On August 31, 1921, its "funded-debt unmatured" account showed a book liability of \$235,393,609.94, of which amount \$43,012,614.94 was held by or for the applicant and \$192,380,995 was actually outstanding.

Many short roads, built mainly by local interests to meet local needs, have been absorbed from time to time by the applicant. Most of them were encumbered by mortgages to the liens of which much of the applicant's mileage is still subject. The applicant itself has

executed other mortgages upon various divisions and lines, and in 1890 it executed its unified mortgage, which is a lien upon nearly half of its system. There are 29 mortgages upon its properties; and while it owns all of the bonds outstanding under 7 of them, bonds secured by each of the other 22 are in the hands of the public. Some of its lines are subject to one mortgage, others to two mortgages, and still others to three. The granting clause of the proposed mortgage includes 635.87 miles of unencumbered road, 2,614.41 miles subject to one mortgage lien, 1,297.94 miles subject to the liens of two mortgages, and 545.74 miles upon which there are three mortgage liens. The existing mortgages will mature at different times to and including March 1, 2002. On August 31, 1921, bonds secured thereby were actually outstanding to the amount of \$152,094,000, and nominally issued or outstanding to the amount of \$42,572,839.94, a total of \$194,666,839.94. But a small portion of these bonds can be refunded under existing mortgages, and the applicant contends that it is not practicable to execute several new mortgages upon the various properties for the purpose of refunding them.

There is evidence that within the next 15 years the applicant will have to pay, fund, or refund \$56,891,600 of fixed liabilities, including equipment obligations and short-term notes; and that in the early future it should make certain improvements and acquire additional equipment, the aggregate cost of which it estimates at \$114,945,000. It may be that the funds necessary for these purposes can be provided, in part at least, from the applicant's income or by sales of its equipment obligations or capital stock; but it asserts that it should be in a position to meet its financial needs by issuing bonds. All of the bonds provided for by the unified mortgage are actually or nominally outstanding, except \$5,048,000, which are reserved to retire specific underlying bonds; and all of the bonds issuable under the applicant's Atlanta, Knoxville & Cincinnati division mortgage have been actually issued or drawn down by the applicant except \$8,242,000, reserved to satisfy specified prior liens, and \$11,273,000, which can be issued only to construct or acquire additional lines of railroad or to double-track roads subject to the lien of that mortgage. The other available mortgages do not provide for the issuance of bonds of a general character except for expenditures upon certain small sections. With the exceptions indicated the bonds authorized under the existing mortgages for extensions, equipment, and additions and betterments have been exhausted.

None of the mortgage bonds which the applicant holds in its treasury or which it could issue under any existing mortgage are now salable except at heavy discounts. Nearly all of those mortgages are closed and the others limit the interest rate on bonds issuable

thereunder to 5 per cent, or less, per annum. The applicant holds unencumbered in its treasury \$65,000 of unified mortgage 4s, which mature in 1940 and are available to savings banks in New York, and the market price of which is about 82½; and \$500,000 of Atlanta, Knoxville & Cincinnati division mortgage 4s, which mature in 1955 and are not available to such banks, and the market price of which is only about 73 but probably would be about 78.71 if they had the same maturity as the unified 4s. These quotations are in harmony with the well known fact that bonds in which savings banks may invest under the laws of the State of New York, sell more readily and at higher prices than other bonds. The unified mortgage is the only existing mortgage of the applicant, meeting the requirements of those laws, under which a substantial amount of bonds can be marketed by the applicant for any purpose.

Section 239 of the general banking law of the State of New York (Consol. Laws, ch. 2; L. 1914, ch. 369, as amended) provides:

A savings bank may invest \* \* \* in the following property and securities and no others, and subject to the following restrictions: \* \* \*

7. The following bonds of railroad corporations: \* \* \*

(e) The mortgage bonds of any railroad corporation incorporated under the laws of any of the United States, which actually owns in fee not less than five hundred miles of standard gauge railway exclusive of sidings, within the United States \* \* \*; provided that all bonds authorized for investment by this paragraph shall be secured by a mortgage which is at the time of making said investment or was at the date of the execution of said mortgage \* \* \* a refunding mortgage issued to retire all prior lien mortgage debts of said company outstanding at the time of said investment and covering at least seventy-five per cent of the railway owned in fee by said company at the date of said mortgage. But no one of the bonds so secured shall be a legal investment in case the mortgage securing the same shall authorize a total issue of bonds which together with all outstanding prior debts of said company, after deducting therefrom in case of a refunding mortgage, the bonds reserved under the provisions of said mortgage to retire prior debts at maturity, shall exceed three times the outstanding capital stock of said company, at the time of making said investment. And no mortgage is to be regarded as a refunding mortgage \* \* \* unless the bonds which it secures mature at a later date than any bond which it is given to refund, nor unless it covers a mileage at least twenty-five per cent greater than is covered by any one of the prior mortgages so to be refunded.

There are similar statutory provisions in other States. (Massachusetts, Acts of 1908, ch. 590, sec. 68; Connecticut, Gen. Stats., sec. 3972; Vermont, Gen. Laws, sec. 5363; Washington, Bank. and Trust Co. Laws, sec. 11.) In New York executors, administrators, guardians, and trustees may invest trust funds only as permitted by statute; and it is provided that they may invest such funds in the same kind

of securities as those in which savings banks are authorized to invest. (Consol. Laws of 1909, ch. 41, sec. 21.)

It is, in our opinion, proper and prudent for the applicant now to close all of its open mortgages and execute a first and refunding mortgage, conforming to the statutes above cited, providing for the issuance of bonds which may bear interest at a rate or rates sufficiently high to make them salable at a reasonable price and designed to meet its financial needs for many years to come, including the refunding of its unmatured funded debt, so that eventually the mortgage will become a first lien upon substantially all of its properties. Such a mortgage the applicant proposes to make under date of August 1, 1921, to the United States Trust Company of New York.

Provisions for the issuance of the \$12,753,000 of series-A bonds, which the applicant seeks authority to sell, is made by section 1 of the third article of the proposed mortgage. When this proceeding was commenced the applicant had under way certain additions and betterments, the cost of completing which it then estimated at \$3,723,131, and it applied for authority to sell \$3,723,000 of said bonds to obtain funds for the completion of these projects. Its estimate appears to have been reasonable and the cost of completion properly chargeable to its account for investment in road and equipment. After the filing of the application and prior to September 1, 1921, it expended on account of such completion \$1,485,708.98, which it charged to investment in road. To this extent, therefore, the sale of bonds as proposed would reimburse the applicant's treasury for work already done; and only the remaining \$2,237,291.02 of this lot of bonds would, if sold, provide it with funds for future work. It expended for equipment and for additions and betterments to property included in the granting clause of the proposed mortgage between March 1, 1920, and April 30, 1921, \$6,625,240.74, none of which has been capitalized, and between July 1, 1916, and December 31, 1918, \$1,520,398.27, of which \$1,512,141.66 has not been capitalized. These uncapitalized expenditures, aggregating \$8,137,382.40, were properly charged by it to investment in road and equipment; and it desires to sell \$8,137,000 of series-A bonds to reimburse its treasury therefor. On August 1, 1921, it expended \$893,000 to retire first-mortgage bonds of the Pensacola & Atlantic Railroad Company, and the mortgage securing those bonds was released. The property upon which that mortgage rested will be covered by the proposed mortgage, having been conveyed to the applicant in fee on June 12, 1891. It has charged the cost thereof to investment in road and equipment; and it now proposes to reimburse its treasury for the last-mentioned expenditure by selling \$893,000 of series-A bonds.

The amount of series-A bonds, which the applicant seeks authority to sell for the reimbursement of its treasury, is \$10,515,708.98. The aggregate amount of series-A bonds, which the applicant seeks authority to sell for the completion of the additions and betterments now under way, as already set forth in this paragraph, is \$2,237,291.02. The total amount of series-A bonds which the applicant seeks authority to sell for the two purposes mentioned in this paragraph is therefore \$12,753,000.

The proposed mortgage provides for an issue of bonds so limited that the amount thereof at any one time outstanding, together with all the outstanding prior debt, after deducting therefrom the amount of bonds reserved thereby to retire prior debt, shall never exceed three times the par value of the then outstanding capital stock. As long as the par value of the outstanding stock remains \$72,000,000, this provision will limit the amount of bonds issuable under the mortgage to \$216,000,000. The mortgage reserves \$184,710,500 of the bonds issuable thereunder to retire a like amount of bonds which constitute "prior debt," as therein defined. The applicant seeks authority in this proceeding to draw down \$15,862,000 of bonds issuable under the mortgage to refund, par for par, bonds not part of such "prior debt," which are held in its treasury and are to be delivered in canceled form to the mortgage trustee. The aggregate amount of the bonds issuable for these two purposes, together with the \$12,753,000 which the applicant proposes to sell, is \$213,325,500. This is \$2,674,500 less than the maximum amount of bonds issuable under the mortgage without any increase in the applicant's outstanding capital stock. The provision of the mortgage limiting the amount of bonds issuable thereunder was designed to meet the requirements of the State statutes above cited.

It is provided in the proposed mortgage that the series-A bonds shall be dated August 1, 1921, and mature April 1, 2003. They will bear interest at the rate of  $5\frac{1}{2}$  per cent per annum, payable semiannually on April 1 and October 1, and be redeemable at the applicant's option on October 1, 1936, or on any interest date thereafter, at 102 and accrued interest. They will be sold at not less than 96, and accrued interest. The annual cost of the money to the applicant will therefore be approximately 5.7 per cent to maturity, or 6.1 per cent if the bonds should be redeemed on October 1, 1936, the earliest redemption date. The interest on the series-A bonds will amount to \$701,415 per annum. The evidence indicates that the applicant's income probably will be more than sufficient to meet its fixed charges, including such interest.

The applicant also seeks authority to procure the authentication and delivery to it by the trustee under the proposed mortgage of an



additional \$15,862,000 of series-A bonds for the purpose of retiring first-mortgage bonds of certain predecessor companies, viz:

Company.	Date of maturity.	Interest rate.	Amount.
		<i>Per cent.</i>	
Lewisburg & Northern Railroad Co.....	Nov. 1, 1965	5	\$8,921,000
Kentucky & Virginia Railroad Co.....	Oct. 1, 1965	5	3,325,000
Birmingham & Tuscaloosa Railroad Co.....	do.....	5	767,000
Gallatin & Scottsville Railway Co.....	July 1, 1931	4	309,000
Madisonville, Hartford & Eastern Railroad Co.....	Nov. 1, 1936	5	1,815,000
Bay Minette & Fort Morgan Railroad Co.....	July 1, 1930	4	225,000
Morganfield & Atlanta Railroad Co.....	June 1, 1932	4	500,000
Total.....			15,862,000

These first-mortgage bonds are held in the applicant's treasury. The substitution therefor of series-A bonds would not increase its funded debt. Nor would its interest charges be at once increased thereby, because it proposes to retain the series-A bonds in its treasury for a time. It could not dispose of such series-A bonds without our authorization; and the proposed mortgage provides that they may be exchanged for bonds of another series issuable thereunder and bearing interest at a lower rate. These series-A bonds, or bonds issued in exchange therefor, would be of great value to the applicant, since they could be pledged to secure short-term loans. There is evidence that said first-mortgage bonds were issued to the applicant at par by the obligor companies in return for funds furnished by it and expended by them in the construction of their respective roads. They were secured by mortgages constituting first and only liens upon those roads, and under which no other bonds have been issued. Prior to the execution of the proposed mortgage the applicant intends to cancel these bonds and to have such mortgages released and discharged of record. The roads now subject to these mortgages are included in the granting clause of the proposed mortgage, having been conveyed by the various mortgagors to the applicant in fee; and they constitute most of the property upon which the proposed mortgage will be a first lien. Following such conveyances the applicant wrote out of its account for investment in securities the amount of these bonds and charged a like amount to its investment in road and equipment. It has since treated these bonds as its own obligations, and will be authorized to substitute therefor series-A bonds, as proposed.

We find that the proposed sale by the applicant of \$12,753,000 of its first and refunding mortgage 5½ per cent gold bonds, series A, at not less than 96 per cent of par, and accrued interest, and the proposed authentication and delivery to it by the trustee under said



mortgage of \$15,862,000 of like bonds (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

A hearing having been had upon this application and the matters and things involved in this proceeding having been investigated, and said division having, on the date hereof, made a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Louisville & Nashville Railroad Company be, and it is hereby, authorized to issue not exceeding \$12,753,000, principal amount, of first and refunding mortgage 5½ per cent gold bonds, series A, under and pursuant to, and to be secured by, the first and refunding mortgage to be made by the applicant to the United States Trust Company of New York, under date of August 1, 1921; said bonds to be dated August 1, 1921, to mature April 1, 2003, to bear interest at the rate of 5½ per cent per annum, payable semiannually on April 1 and October 1, and to be redeemable on October 1, 1936, or on any interest date thereafter, at 102 per cent of par and accrued interest; said bonds to be sold at not less than 96 per cent of par and accrued interest, and the proceeds of the sale of \$2,237,291.02, principal amount, thereof to be applied exclusively to the completion of certain projects now under way and referred to in said report, and the proceeds of the sale of the remainder of said bonds to be used to reimburse the treasury of the applicant for expenditures made from income for capital purposes.

*It is further ordered*, That the Louisville & Nashville Railroad Company be, and it is hereby, authorized to procure the authentication and delivery to it by the trustee under said first and refunding mortgage of \$15,862,000, principal amount, of like bonds under and pursuant to, and to be secured by, said mortgage: *Provided, however*, That before procuring such authentication and delivery of said bonds, or any of them, the applicant shall cancel and deliver to the trustee under said mortgage the following bonds now held unencumbered in the applicant's treasury: \$8,921,000, principal amount, of the first-mortgage bonds of the Lewisburg & Northern Railroad Company; \$3,325,000, principal amount, of the first-mortgage bonds

of the Kentucky & Virginia Railroad Company; \$767,000, principal amount, of the first-mortgage bonds of the Birmingham & Tuscaloosa Railroad Company; \$309,000, principal amount, of the first-mortgage bonds of the Gallatin & Scottsville Railway Company; \$1,815,000, principal amount, of the first-mortgage bonds of the Madisonville, Hartford & Eastern Railroad Company; \$225,000, principal amount, of the first-mortgage bonds of the Bay Minette & Fort Morgan Railroad Company; and \$500,000, principal amount, of the first-mortgage bonds of the Morganfield & Atlanta Railroad Company.

*It is further ordered,* That except as herein authorized, said bonds shall not, nor shall any portion thereof, be issued, used, sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the sale of said \$12,753,000, principal amount, of the first and refunding mortgage 5½ per cent gold bonds, series A; (2) the authentication and delivery to it of said \$15,862,000, principal amount, of like bonds, and (3) the cancellation and delivery to the trustee under the applicant's first and refunding mortgage of said first-mortgage bonds now held in the applicant's treasury; and for the period ending June 30, 1922, and for each period of six months thereafter, within 30 days after the close of such period, shall report to this commission all pertinent facts relating to the application of the proceeds of said \$2,237,291.02, principal amount, of said first and refunding mortgage bonds, including the account or accounts to which charged, and continue to make such reports until all of the proceeds thereof have been used; each report to be in writing and signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered,* That nothing herein contained shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1532.

## IN THE MATTER OF THE APPLICATION OF THE AMERICUS &amp; ATLANTIC RAILROAD COMPANY FOR AUTHORITY TO ISSUE STOCK AND BONDS.

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*Approved December 19, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

## ORDER.

*It appearing*, That on the 25th day of July, 1921, the Americus & Atlantic Railroad Company filed its application under section 20a of the interstate commerce act, as amended, for authority to issue \$150,000 of stock and \$120,000 of bonds, the proceeds from the sale of \$115,750 of said stock and from the sale of all of said bonds to be used in payment of the purchase price of a certain railroad; that on July 29, 1921, a questionnaire or list of interrogatories designed to elicit from the applicant additional information with respect to the application, was sent to the applicant by this commission; that on sundry dates thereafter, namely, September 30, 1921, October 12, 1921, and November 12, 1921, further request was made upon the applicant by this commission for said additional information; and that the applicant has failed to furnish said information or any part thereof:

*It is ordered*, That this proceeding be, and it is hereby, dismissed.

70 I. C. C.

## FINANCE DOCKET No. 1656.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO &amp; NORTH WESTERN RAILWAY COMPANY FOR AUTHORITY TO PROCURE AUTHENTICATION AND DELIVERY OF BONDS.

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*Submitted December 8, 1921. Decided December 19, 1921.*

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1. Authority granted to procure authentication and delivery to applicant's treasurer of \$375,000 of general-mortgage gold bonds, to be held in the treasury until the further order of the commission.
2. Action on request for authority to issue bonds in 1922 and subsequent years deferred.

*James B. Sheean* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago & North Western Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to procure authentication and delivery to its treasurer by the trustees of \$375,000 of general-mortgage gold bonds of 1987, or first and refunding mortgage gold bonds, on account of expenditures made during the year 1921 in the payment and retirement of certain underlying bonds, (2) to procure the authentication and delivery to its treasurer, from time to time, by the trustees, of not to exceed \$3,825,000 of general-mortgage gold bonds of 1987, or first and refunding mortgage gold bonds, on account of expenditures to be made, from time to time during the years 1922 to 1932, inclusive, in payment and retirement of certain underlying bonds. An objection to the granting of the application was filed by the Public Utilities Commission of Nebraska, in which State, among others, the applicant operates, on the ground that the refunding of applicant's obligations should be deferred until interest rates are more favorable and that the application lacks definiteness. However, no immediate use of the bonds is proposed, and no sale or other disposition may be made without our further order. No other objection has been made to the granting of the application.

By the provisions of the applicant's general gold-bond mortgage dated November 1, 1897, to the United States Trust Company and John A. Stewart, trustees, a copy of which has heretofore been filed

*It is further ordered*, That said general-mortgage bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the authentication and delivery of said general-mortgage bonds to its treasurer, and that it shall at the same time report the details of the retirement and cancellation of the underlying bonds in respect of which said general-mortgage bonds are authenticated and delivered; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

which will mature during those years in the principal amount of \$3,425,000, and Milwaukee, Lake Shore & Western Railway Company Marshfield extension first-mortgage bonds in the amount of \$400,000, which will fall due October 1, 1922.

It does not appear to be necessary at this time to grant authority for the authentication and delivery of bonds in future years. Action will, therefore, be deferred in the case of all the bonds except those to be authenticated and delivered in respect of payments made in the retirement of underlying bonds during the year 1921.

We find that the proposed procurement of authentication and delivery to the applicant by the trustees of general-mortgage gold bonds to the amount of \$375,000 for expenditures made in 1921, as above stated, (a) is for a lawful object within the corporate purposes of the applicant, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Chicago & North Western Railway Company be, and it is hereby authorized, in order that it may reimburse its treasury for expenditures therefrom during the year 1921 in the payment and retirement of \$200,000 of Chicago & North Western Railway Company sinking-fund debenture bonds of 1933, \$135,000 of Chicago & North Western Railway Company sinking-fund bonds of 1879, and \$40,000 of Milwaukee, Lake Shore & Western Railway Company extension and improvement sinking-fund mortgage bonds, as set forth in the application, to procure the authentication and delivery by the trustees to its treasurer of not exceeding \$375,000, principal amount, of its general-mortgage gold bonds under and pursuant to, and to be secured by, its general gold-bond mortgage of 1887, dated November 1, 1897, made by the applicant to the United States Trust Company and John A. Stewart, trustees; said bonds to bear interest at a rate not exceeding 5 per cent per annum, and to mature November 1, 1987.

*It is further ordered,* That said general-mortgage bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That, within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the authentication and delivery of said general-mortgage bonds to its treasurer, and that it shall at the same time report the details of the retirement and cancellation of the underlying bonds in respect of which said general-mortgage bonds are authenticated and delivered; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.



## FINANCE DOCKET No. 1657.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO &amp; NORTH WESTERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE CERTAIN BONDS.

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*Submitted November 2, 1921. Decided December 19, 1921.*

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Authority granted to procure authentication and delivery to applicant's treasurer of \$1,000,000 of general-mortgage gold bonds of 1987 and \$3,000,000 of first and refunding mortgage gold bonds, to be held in the treasury until the further order of the commission.

*James B. Sheean* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago & North Western Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to procure authentication and delivery to its treasurer by the trustee of \$1,000,000 of general-mortgage gold bonds of 1987 and also of (2) \$3,000,000 of first and refunding mortgage gold bonds for the purpose of reimbursing its treasury in part for money expended out of income in construction of additions, betterments, and improvements. An objection to the granting of this application was filed by the Public Utilities Commission of Nebraska, in which State, among others, the applicant operates, on the ground that interest rates are now high and that by deferring the sale of the bonds a better price may be realized. However, no immediate sale is proposed, and no sale or other disposition of the bonds can be made without our further order. No other objection to the granting of the application has been offered.

By the provisions of the applicant's general gold-bond mortgage of 1987, dated November 1, 1897, to the United States Trust Company of New York and John A. Stewart, trustees, a copy of which heretofore has been filed with us, the applicant is authorized to issue bonds, not exceeding \$1,000,000 in any one year, bearing interest at such rate, not to exceed 5 per cent per annum, as may be determined by it, and maturing November 1, 1987, for the purpose, among others, of reimbursing its treasury for expenditures for extensions, bet-

terments, and improvements. Since December 31, 1920, the applicant has expended out of income various amounts, in the aggregate exceeding \$1,000,000, in permanent improvement of and additions to its property subject to the mortgage. The applicant represents that no part of these expenditures has been capitalized.

By the provisions of applicant's first and refunding gold-bond mortgage, dated May 1, 1920, to the Farmers' Loan & Trust Company and Edwin S. Marston, trustees, a copy of which heretofore has been filed with us, the applicant is authorized to issue an amount of bonds equal to the moneys expended by it in the construction of additions, betterments, and improvements to the property subject to said mortgage. These bonds will bear such rate of interest as may be determined by the applicant, and will mature May 1, 2037. The applicant represents that during the 16 months ending August 31, 1921, it has expended out of income various amounts, exceeding \$6,000,000 in the aggregate, in the construction of additions, betterments, and improvements to its property subject to this mortgage; that these expenditures did not embrace the expenditures heretofore referred to in this report or any part thereof; and that these expenditures have not heretofore been capitalized. The applicant, however, desires only to have bonds authenticated and delivered to the extent of \$3,000,000, bearing interest at the rate of 6 per cent per annum, in order to capitalize such expenditures at this time.

We find that the proposed procurement of authentication and delivery of general-mortgage gold bonds and of first and refunding mortgage gold bonds by the applicant (*a*) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service; and (*b*) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago & North Western Railway Company be, and it is hereby, authorized, in order that it may reimburse its treasury for expenditures made therefrom in payment for the construction of additions, betterments, and improvements to its property, as set forth in the application, to procure authentication and

delivery by the trustees to its treasurer of not exceeding \$1,000,000, principal amount, of its general-mortgage gold bonds, under, and pursuant to, and to be secured by, the general gold-bond mortgage of 1987, dated November 1, 1897, made by the applicant to the United States Trust Company of New York and John A. Stewart, trustees; said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually, and to mature November 1, 1987.

*It is further ordered,* That the Chicago & North Western Railway Company be, and it is hereby, authorized, in order that it may reimburse its treasury for expenditures made therefrom in payment for the construction of additions, betterments, and improvements to its property, as set forth in the application, to procure authentication and delivery by the trustees to its treasurer of not exceeding \$3,000,000 principal amount of its first and refunding mortgage gold bonds, under, and pursuant to, and to be secured by, the first and refunding gold-bond mortgage, dated May 1, 1920, made by the applicant to the Farmers' Loan & Trust Company and Edwin S. Marston, trustees; said bonds to bear interest at the rate of 6 per cent per annum, payable semiannually, and to mature May 1, 2037.

*It is further ordered,* That said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the authentication and delivery to its treasurer of the said general-mortgage gold bonds and first and refunding mortgage gold bonds, such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1666.

## IN THE MATTER OF THE APPLICATION OF THE SEWELL VALLEY RAILROAD COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted December 6, 1921. Decided December 19, 1921.*

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Authority granted to issue \$110,000 of first-mortgage 5 per cent gold bonds; said bonds to be sold at not less than 86.667 per cent of their face amount and accrued interest for the purpose of reimbursing T. W. Raine for advances amounting to \$65,000 made by him to the applicant for the purchase of 25 coal cars, and for the reimbursement in part of money expended from the applicant's treasury in the purchase of a locomotive.

*Henry Gilmer* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

The Sewell Valley Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$110,000 of its first-mortgage 5 per cent gold bonds; said bonds to be sold at not less than 86.667 per cent of their face amount for the purpose of paying indebtedness in open account incurred in the purchase of 25 coal cars, and to reimburse its treasury in part for money expended in the purchase of a locomotive. No objection has been offered to the granting of the application.

The applicant's first mortgage, dated November 15, 1908, made to F. L. Andrews, trustee, authorizes the issue of \$300,000 of bonds, to bear interest at a rate not to exceed 5 per cent per annum, to mature November 15, 1938, and to be sold and disposed of for the proper construction and equipment of its line of railroad. The mortgage covers all of the property owned by applicant at the time of its execution, as well as all property subsequently acquired. Of the bonds authorized by this mortgage \$190,000 are now outstanding and \$60,000 have been authenticated by the trustee and are now held in the applicant's treasury.

In our report in *Coal from Sewell Valley R. R. Stations*, 58 I. C. C., 261, relating to rates on bituminous coal from Sewell Valley railroad stations, decided July 28, 1920, we said: "The Sewell Valley receives 10 per cent of the rate and should furnish 10 per cent of the  
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cars. It will be expected to equip itself with at least 22 coal cars within a reasonable time." In compliance with this opinion the applicant purchased twenty-five 55-ton steel-hopper coal cars at a cost of \$65,000, which amount it borrowed from T. W. Raine on open account.

The applicant represents that increased traffic originating on the Greenbrier & Eastern Railroad, a new line connecting with its road near its northern terminus and serving a new coal field, made necessary an additional locomotive, which was purchased at a cost of \$42,852.05. The proceeds of the sale of bonds remaining after the payment of the Raine account will be used to reimburse the applicant's treasury in part for the cost of this locomotive.

The applicant proposes to sell the bonds held in its treasury, and also the remaining \$50,000 of bonds authorized under the mortgage. Arrangements have been made for the sale of the bonds at a net price of 86.667 per cent of the face amount thereof, which will result in an approximate cost to the applicant of 6.3 per cent per annum.

We find that the proposed issue of first-mortgage 5 per cent gold bonds by the applicant (*a*) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Sewell Valley Railroad Company be, and it is hereby, authorized to issue not to exceed \$110,000, principal amount, of first-mortgage gold bonds under and pursuant to, and to be secured by, the first mortgage, dated November 15, 1908, made by the applicant to F. L. Andrews, of New Bethlehem, Pa., trustee; said bonds to bear interest at the rate of 5 per cent per annum, payable semiannually on May 15 and November 15 in each year, and to mature on November 15, 1938; said bonds to be sold at not less than 86.667 per cent of their face amount and accrued interest; the proceeds of such sale to be used solely for the purposes set forth in the application.

*It is further ordered*, That, except as herein authorized, said first-mortgage 5 per cent gold bonds shall not be sold, pledged, repledged,

or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered,* That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the sale of said bonds and (2) the application of the proceeds realized from such sale, including the accounts charged therewith; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1692.

IN THE MATTER OF THE JOINT APPLICATION OF THE OHIO BELL TELEPHONE COMPANY AND THE CHESAPEAKE & POTOMAC TELEPHONE COMPANY FOR A CERTIFICATE THAT ACQUISITION OF THE PROPERTY OF THE CHESAPEAKE & POTOMAC TELEPHONE COMPANY IN THE STATE OF OHIO WILL BE OF ADVANTAGE AND IN THE PUBLIC INTEREST.

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*Submitted December 8, 1921. Decided December 19, 1921.*

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Certificate issued authorizing the acquisition by the Ohio Bell Telephone Company of the property of the Chesapeake & Potomac Telephone Company in the State of Ohio.

*Karl E. Burr and Charles S. Maltby* for the Ohio Bell Telephone.  
*C. W. Artz* for the Chesapeake & Potomac Telephone Company.

*George T. Poor and Charles C. Marshall* for the Public Utilities Commission of Ohio.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Ohio Bell Telephone Company, hereinafter referred to as the Ohio Company, and the Chesapeake & Potomac Telephone Company, hereinafter called the Chesapeake Company, on November 8, 1921, filed a joint application pursuant to the provisions of section 5 of the interstate commerce act, as amended by act of Congress approved June 10, 1921, amending section 407 of the transportation act, 1920, for a certificate that the acquisition by the Ohio Company of the property of the Chesapeake Company situated in the State of Ohio, will be of advantage to the persons to whom service is to be rendered and in the public interest.

The Chesapeake Company owns and operates 29 telephone exchanges in 21 counties in eastern Ohio, serving 26,726 subscribers. It also operates 740 pole miles of toll line in that portion of the State. This company also furnishes telephone service in Maryland, Virginia, West Virginia, and the District of Columbia. At eight points in Columbiana County, Ohio, the Chesapeake Company's exchanges are



duplicated by competing exchanges of the Ohio Company, which has at these points a total of 3,411 subscribers as against 7,120 subscribers of the Chesapeake Company. These eight exchanges of the Ohio Company were formerly the property of the Ohio State Telephone Company, a member of the so-called independent group, but these exchanges became the property of the Ohio Company in a recent merger. Duplication therefore now exists between the two members of the so-called Bell group, and it is desired to make the transfer so as to relieve the Chesapeake Company from the necessity of operating in the State of Ohio at all. The Ohio Company is subject to the interstate commerce act.

The Public Utilities Commission of Ohio has heretofore approved the proposed merger and announced that the Ohio Company must proceed to unify the service at such duplicated exchanges as soon as rates to be charged for such unified service shall have been fixed and determined in the manner provided by law.

The agreement by which the proposed acquisition is to be brought about provides for the transfer to the Ohio Company of all telephone property and assets of the Chesapeake Company located within the State of Ohio, together with all bills and accounts receivable and deferred debits, and all material and supplies, fixtures, tools, and other property used in the operations of the Chesapeake Company in that State. The consideration is fixed at the sum of \$3,231,784.47 as of August 31, 1921, plus the cost of net additions to the properties between that date and the date of transfer as determined from the books of the Chesapeake Company. The property will be acquired free and clear of all incumbrance except certain deferred-credit items and fixed-capital reserve and surplus. Evidence was offered tending to show a present value of the property affected of considerably more than the amount to be paid by the Ohio Company.

The primary purpose of the transfer as regards the property at points where duplication exists is to eliminate the operation of two properties in the same municipality, thus avoiding the inconvenience and added expense which results from such duplication. With respect to the remaining 21 exchanges, it is pointed out that operation of these by the Ohio Company will be more economical and efficient, since these properties will be merged with the Ohio Company's existing system in that State and become an integral part thereof, eliminating considerable general-office and other overhead expense which must necessarily be incurred by the Chesapeake Company so long as it operates in Ohio. No advance in rates at these 21 exchanges is likely to result because of the transfer. Such increased rates as may come about at the eight points where unification is to

be effected will be determined by the State commission in future proceedings.

Upon the facts presented we find that the proposed acquisition, as set forth in the joint application herein, will be of advantage to the persons to whom service is to be rendered and in the public interest. A certificate to that effect will be issued.

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*Certificate of Advantage and Public Interest.*

A hearing having been had in this proceeding, and full investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the acquisition by the Ohio Bell Telephone Company of the property of the Chesapeake & Potomac Telephone Company as described in said report will be of advantage to the persons to whom service is to be rendered and in the public interest.

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## FINANCE DOCKET No. 1713.

## IN THE MATTER OF THE APPLICATION OF THE SOUTHERN RAILWAY COMPANY FOR AUTHORITY TO PROCURE AUTHENTICATION AND DELIVERY OF BONDS.

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*Submitted December 6, 1921. Decided December 19, 1921.*

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Authority granted to procure authentication and delivery to applicant's treasurer of \$5,225,000 of development and general mortgage 4 per cent gold bonds, to be held in the treasury until the further order of the commission.

*L. E. Jeffries* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Southern Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to procure authentication and delivery by the trustee to its treasurer of \$5,225,000 of its development and general mortgage 4 per cent gold bonds. No objection has been made to the granting of the application.

By the applicant's development and general mortgage dated April 18, 1906, to the Standard Trust Company of New York (now the Guaranty Trust Company of New York), the issue of \$200,000,000 of bonds was authorized. Section 8 of article 1 thereof provides that not exceeding \$5,000,000 of bonds may be certified and delivered by the trustee in each calendar year for and in respect of construction or acquisitions of the character specified therein. It appears that during the period from July 1, 1917, to December 31, 1920, the applicant has made expenditures aggregating \$25,962,538.98, of which \$5,000,000 were capitalized during the calendar year 1920, leaving \$20,962,538.98 not heretofore capitalized. Authority is sought to procure authentication and delivery of \$5,000,000 of bonds for the calendar year 1921 in respect of part of those expenditures.

Under section 5 of article 1 of the mortgage, \$18,008,000 of bonds were reserved for the purpose of providing for the payment and redemption of certain equipment obligations. Of the bonds so reserved, \$225,000 remain unissued. The applicant represents that on June 31, 1921, it paid \$300,000 of equipment obligations under its equipment trust, series L, which was established by an agreement

dated February 2, 1906, between Edward T. Stotesbury, the Fidelity Trust Company of Philadelphia, and the applicant. The applicant is therefore entitled to have bonds executed and delivered to it by the trustee in an amount equivalent to 75 per cent of the equipment obligations so paid.

We find the proposed procurement of authentication and delivery of bonds by the trustee to the treasurer of the applicant as aforesaid (a) is for a lawful object within the applicant's corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That, in order that it may reimburse its treasury for expenditures to the extent of \$5,000,000 for construction or acquisitions of the character specified in its development and general mortgage and to the extent of 75 per cent of \$300,000 used in payment of equipment-trust obligations, series L, the Southern Railway Company be, and it is hereby, authorized to procure authentication and delivery by the trustee to its treasurer of \$5,225,000, principal amount, of its development and general mortgage 4 per cent gold bonds under and pursuant to, and to be secured by, the development and general mortgage dated April 18, 1906, made by the applicant to the Standard Trust Company of New York (now the Guaranty Trust Company of New York); said bonds to bear interest at the rate of 4 per cent per annum, payable semiannually on the 1st day of April and of October in each year, and to mature on the 1st day of April, 1956, and, when so authenticated and delivered by the trustee, to be held in the treasury of the applicant.

*It is further ordered*, That said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the authentication and delivery of said bonds to its treasurer; such

report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered,* That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

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## FINANCE DOCKET No. 1520.

**IN THE MATTER OF THE APPLICATION OF THE NORFOLK SOUTHERN RAILROAD COMPANY AND THE CARTHAGE & PINEHURST RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

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*Submitted December 15, 1921. Decided December 20, 1921.*

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Certificate issued authorizing the abandonment of a line of railroad in Moore County, N. C.

*W. B. Rodman* for applicants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Norfolk Southern Railroad Company, lessee, a carrier by railroad subject to the interstate commerce act, filed an application on July 14, 1921, for a certificate that the present and future public convenience and necessity permit the abandonment of the Carthage & Pinehurst Railroad, located in Moore County, N. C. The Carthage & Pinehurst Railroad Company joined in the application. The Corporation Commission of North Carolina conducted a hearing for us upon the application, at which hearing no appearances were entered in opposition to the proposed abandonment.

The Carthage & Pinehurst was built in 1907 by A. E. Page, head of a large lumber concern which owned valuable tracts of timber in Moore County, who is the builder and owner of the Aberdeen & Asheboro Railroad, with which the Carthage & Pinehurst connects. It extends in a general northerly direction from Pinehurst to Carthage, in Moore County, N. C., a distance of 12.226 miles. On October 23, 1909, the railroad, franchises, and other property of the Carthage & Pinehurst were leased to the Aberdeen & Asheboro Railroad Company for five years from October 1, 1907. It has since been operated by the latter company and its successor, the Norfolk Southern Railroad Company. Our Bureau of Valuation has found that the initial cost of the road was \$106,900.

The only indebtedness resting in whole or in part upon the line is in the form of \$37,500 of first-mortgage 6 per cent bonds of the Carthage & Pinehurst Railroad Company, which will mature on

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June 1, 1922, and which are guaranteed by the Aberdeen & Asheboro Railroad Company.

Although the lease under which the Norfolk Southern Company operated the Carthage & Pinehurst road expired upon the termination of Federal control, the former company continues to operate the line, but such operation has proved not only unprofitable but unduly burdensome upon the revenues from the applicant's own line. The gross revenues of the road for the year 1920 aggregated \$15,495.10. Analysis of the records submitted disclosed an actual deficit to the lessee company of \$27,137.67 for that year, exclusive of taxes, hire of equipment, and interest on funded debt; the total deficit for the year being \$35,327.59.

Revenue from purely local freight traffic of the road during the year 1920 amounted to only \$529.50, or approximately \$44 a month. The commodities moved consisted chiefly of small shipments of cotton and fertilizer. It is urged by the applicants that no public necessity, either present or prospective, requires the operation of the line, as the territory traversed by it has excellent highways, and Carthage and Pinehurst, the only towns served by it, have ample railroad facilities, the one being served by the Randolph & Cumberland Railroad and the other by the Norfolk Southern Railroad.

The population tributary to the line in question is estimated at 2,000, inclusive of that of the town of Carthage, which is approximately 850. No industries of any kind are located in the territory traversed by the road, except one small brick plant and 32 farms aggregating 1,820 acres. The products of these at no time have been transported over the applicant's line, being hauled either by motor truck or by wagon from the farms to Carthage or other markets. No deprivation of shipping facilities, through the abandonment of the line, would be suffered by the residents of the territory traversed by it, as none of them are farther removed than 6.5 miles from the main line of one of three other railroads.

The Carthage & Pinehurst Company has offered to sell the line for the amount of its outstanding bonds, \$37,500, but has received no bid. It desires to abandon the line because it has no equipment and no funds with which to purchase equipment; and it can borrow no money for any purpose because of the bad financial showing during its operation under lease to the Norfolk Southern Company.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment of the line of railroad in question. A certificate to that effect will be issued.



*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified*, That the present and future public convenience and necessity permit the abandonment by the Norfolk Southern Railroad Company of operation of the line of railroad extending from Pinehurst to Carthage, in the county of Moore, N. C., described in the application and report aforesaid; and also permit the Carthage & Pinehurst Railroad Company to abandon and take up said line of railroad.

*It is ordered*, That the said Norfolk Southern Railroad Company and the said Carthage & Pinehurst Railroad Company be, and they are hereby, authorized to abandon said line of railroad.

*It is further ordered*, That the said Norfolk Southern Railroad Company, when filing schedules canceling tariffs applicable to said line of railroad, shall in such schedules make specific reference to this certificate by title, date, and docket number.

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## FINANCE DOCKET No. 1214.

## IN THE MATTER OF THE APPLICATION OF THE FORT SMITH &amp; WESTERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE SECURITIES.

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*Submitted November 12, 1921. Decided December 21, 1921.*

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Authority granted to issue, in exchange for certain bonds, 62,400 shares of common stock without par value, \$1,500,000, principal amount, of first-mortgage bonds, and \$3,744,000, principal amount, of second-mortgage bonds; the bonds acquired through such exchange to be used for the purchase of certain property.

*A. C. Dustin* for applicant.

## REPORT OF THE COMMISSION.

## BY THE COMMISSION:

The Fort Smith & Western Railway Company, hereinafter termed the applicant, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, has duly applied for authority under section 20a of that act to issue 62,400 shares of common stock without par value, \$1,500,000 of first-mortgage bonds, and \$3,744,000 of second-mortgage bonds, which securities it proposes to exchange for first-mortgage bonds of the Fort Smith & Western Railroad Company, hereinafter termed the old company, and to use the last-mentioned bonds for the purpose of acquiring at a mortgage-foreclosure sale all of the property, assets, and franchises of the old company, subject to certain specified obligations. No objection to the granting of the application has been made.

On April 1, 1904, the old company executed and delivered to a trustee a first mortgage upon its line of railroad between Fort Smith, Ark., and Guthrie, Okla., a distance of approximately 217 miles, and upon all other properties then owned and thereafter to be acquired by it. This mortgage was given to secure an authorized issue of \$7,500,000 of bonds, bearing interest at the rate of 4 per cent per annum. Bonds were issued thereunder to the amount of \$7,000,000, of which \$6,240,000 were sold and \$760,000 pledged as collateral security for certain obligations of the railroad company aggregating \$280,000. These are all the outstanding bonds of the old company and no interest has been paid on them since 1907.

On October 9, 1915, the substituted trustee under the mortgage above mentioned brought suit to foreclose it in the District Court

of the United States for the Western District of Arkansas, Fort Smith Division. The court on the same date appointed a receiver of all the properties and assets of the old company, who thereupon took possession of such properties and has since been operating the railroad under direction of the court. With earnings from the operation of the road and the proceeds of certificates issued by him, the receiver has acquired certain properties, all of which are subject to the lien of the mortgage and will be acquired by the applicant.

On October 20, 1916, a decree was entered in the suit foreclosing the mortgage, and on February 2, 1921, the court ordered that the properties be sold on March 31, 1921, at Fort Smith, Ark. This sale has been indefinitely postponed.

As the sale of the old company's property is to be made under order of the court, we have not made independent investigation of its terms. The foreclosure decree ordered, adjudged, and decreed that the said mortgage was valid and a first lien on all the properties of the old company; that \$6,240,000 of these bonds were lawfully issued and sold; that there was due and owing thereon as of October 1, 1916, the sum of \$8,963,760, and that interest at the rate of 5 per cent per annum should be computed on this amount from October 1, 1916, to the date of the surrender of said bonds at foreclosure sale; that \$760,000 thereof were lawfully issued and pledged by the old company as security for certain of its obligations which then aggregated \$280,000 in principal amount; that there was due and owing on the bonds so pledged, as of October 1, 1916, the sum of \$1,048,700, and that interest at the rate of 6 per cent per annum should be computed on said obligations from April 1, 1916, to the date of the surrender at foreclosure sale of the bonds as collateral; that the purchaser at the foreclosure sale might satisfy his bid, in whole or in part, by surrendering to the clerk of the court the outstanding bonds secured by the mortgage, together with the overdue coupons appertaining thereto; and that the sale of the properties should be made subject to a lien thereon in favor of the receiver for all costs, expenses, and indebtedness of the receiver, payment of which should be assumed by the purchaser with appropriate deductions from the price bid at the sale.

About July 1, 1910, a majority of the owners and holders of the first-mortgage bonds organized a protective committee, which now owns, controls, or represents upward of 98 per cent of all the outstanding bonds of the old company.

The applicant is a Delaware corporation and was incorporated at the instance of the protective committee with a view to the reorganization of the railroad in the interests of the bondholders. It is proposed that the applicant issue and deliver to the committee, in ex-

change for the outstanding bonds of the old company, the securities to which this proceeding relates; that the applicant purchase the properties of the old company at the foreclosure sale, and that it pay therefor with the bonds to be acquired by it from the committee. The bondholders whose bonds have not been deposited with the committee will be given such further time to make deposit as may be fixed by the court, to the end that all such bondholders may be on a parity. If the committee is unable to deliver to the applicant all of the outstanding bonds, it will pay into court such part of the price bid by the applicant at the foreclosure sale as is apportionable to the bonds not delivered, in default of which the securities to be delivered by the applicant to the committee will be proportionately reduced.

Of the securities to be issued, as hereinbefore stated, it is proposed that the \$1,500,000 of first-mortgage bonds be 20-year 7 per cent gold coupon bonds, issued under a first mortgage upon all the properties to be acquired at the foreclosure sale, securing an authorized issue of \$3,500,000 of bonds, redeemable at 102 and accrued interest on any interest date. It is proposed that the \$3,744,000 of second-mortgage bonds be 20-year 6 per cent gold coupon bonds, issued under a second mortgage upon said properties, securing an authorized issue of \$10,000,000 of bonds, redeemable at 102 and accrued interest on any interest date, and the interest on which, for five years from the date of issue is to be noncumulative and payable only if earned.

We are of the opinion, however, that the proposed first-mortgage bonds should bear interest at a rate not exceeding 6 per cent per annum; that the proposed second-mortgage bonds should bear interest at a rate exceeding 5 per cent per annum, and that for 10 years from the date of issue the interest on the second-mortgage bonds should be noncumulative and payable only if earned. Our order will contain provisions accordingly.

The applicant's certificate of incorporation provides, as permitted by the laws of Delaware, that its authorized capital stock shall consist of 70,000 shares without nominal or par value and that such stock may be issued from time to time for such consideration as may be fixed by its board of directors. Of this stock 62,400 shares are to be now issued, as hereinbefore stated.

The annual report filed with us by the receiver for the calendar year 1920 shows a total investment in road and equipment of \$12,075,374.09. Evidence has been submitted that the cost of reproduction, less depreciation, of all the properties of the old company held by the receiver is not less than \$10,000,000. This exceeds by \$4,309,857 the aggregate amount of the proposed first and second mortgage bonds and of the receiver's outstanding certificates, equip-

ment obligations, and short-term notes. Our valuation of this property has not yet been completed.

A comparison of the old company's actually issued and outstanding securities and those proposed by the applicant shows a reduction in capital liabilities as follows:

	Railroad company.	Applicant.
Capital stock.....	50,000 shares, par value \$100.	62,400 shares, without par value.
Debt:		
Bonds.....	\$6,240,000	\$6,244,000
Receiver's certificates.....	192,500	192,500
Equipment obligations.....	22,643	22,643
Short-term notes.....	601,000	231,000
Total debt.....	7,056,143	5,690,143
Net reduction of debt.....		1,366,000

The fixed annual interest charges will be reduced as follows:

	Railroad company.	Applicant.
First-mortgage bonds.....	\$249,600	\$90,000
Receiver's certificates.....	11,550	11,550
Equipment obligations.....	602	602
Five-year note.....	9,360	9,360
Total charges.....	271,112	111,512
Net reduction.....		159,600

In addition there will be annual interest charges on the 5 per cent second-mortgage bonds amounting to \$187,200 to be paid only if and when there are sufficient surplus earnings derived from operation, such interest to be noncumulative. Beginning 10 years after the date of issue, however, these bonds will cease to be income bonds, and the interest thereon will be added to the fixed annual interest charges.

The evidence submitted tends to show that the fixed charges will be reduced for 10 years to an amount within the probable earning power of the applicant. Under these circumstances, we are of the opinion that the issuance of the new securities is warranted.

Under the terms of the foreclosure decree the applicant must assume liability in respect of such securities issued by the receiver of the old company as may be outstanding at the date of the acquisition by the applicant of the properties of the old company. The record shows that there were outstanding, as of September 30, 1921, \$348,500 of receiver's certificates, \$22,643 of equipment obligations, and \$231,000 of short-term notes. A receiver's certificate for \$156,000 is pledged as collateral to a five-year note for that amount.

While the application shows that these securities must be assumed by the applicant, authority for such assumption is not asked therein, and the record is not altogether clear as to whether or not in the

issuance of some of them the receiver has complied fully with the provisions of section 20a of the interstate commerce act. We, therefore, do not pass upon such assumption at this time.

We find that contingent upon the acquisition by the applicant of the properties of the old company and the outstanding bonds of such company in the manner and to the extent hereinbefore set forth, but without passing on the method of such acquisition, the proposed issue by the Fort Smith & Western Railway Company of the common stock without par value, first-mortgage bonds, and second-mortgage bonds specified (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

COMMISSIONER EASTMAN dissents.

### ORDER.

Hearings in this proceeding and full investigation of the matters and things involved therein having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Fort Smith & Western Railway Company be, and it is hereby, authorized to issue, as of the date of the acquisition at foreclosure sale of the properties of the Fort Smith & Western Railroad Company as set forth in said report, or within 60 days thereafter:

(1) 62,400 shares of common stock without par value;

(2) \$1,500,000, principal amount, of first-mortgage gold coupon bonds under and pursuant to, and to be secured by, a first mortgage to be made by applicant which shall cover all the property of the said railway company and shall be substantially of the tenor and effect of the first mortgage of the Fort Smith & Western Railroad Company dated April 1, 1904, a copy of which is filed with the application herein; said bonds to be dated as of the date of issue, to mature not later than 20 years from the date of issue, to bear interest at the rate of 6 per cent per annum, payable semiannually, to be subject to redemption at the option of the applicant, on any interest date, at 102 per cent of their face value, with accrued interest, and to be substantially in the form submitted with the application; and

(3) \$3,744,000, principal amount, of second-mortgage gold coupon bonds under and pursuant to, and to be secured by, a second mortgage to be made by the applicant of substantially the same form as the first mortgage; said bonds to be dated as of the date of issue, to mature not later than 20 years from the date of issue, and to bear interest at a rate not exceeding 5 per cent per annum, pay-



able one year from the date of issue and annually on the same date in each of the succeeding nine years, such interest to be payable only from the applicant's surplus earnings and to be noncumulative; said bonds to bear interest from and after 10 years from the date of issue at the rate of 5 per cent per annum, payable semiannually, to be subject to redemption at the option of the applicant on any interest date at 102 per cent of their face value, with accrued interest, and to be substantially in the form submitted with the application;

all of the aforesaid securities to be issued for the sole purpose of acquiring certain properties and assets of the Fort Smith & Western Railroad Company, which are to be purchased by the applicant and certain outstanding bonds of said Fort Smith & Western Railroad Company, referred to in said report.

*It is further ordered*, That the values to be assigned in the applicant's accounts to said properties and assets of the Fort Smith & Western Railroad Company when acquired by the applicant shall not in the aggregate exceed the sum of \$10,000,000: *Provided, however*, That such values shall be increased or decreased as we may hereafter direct by supplemental order herein.

*It is further ordered*, That the authority herein granted shall not be exercised unless and until authority from this commission shall have first been obtained by the applicant to assume obligations or liabilities in respect of such securities of the receiver of the Fort Smith & Western Railroad Company as may be outstanding at the date of the actual acquisition by the applicant of said properties and assets, or unless otherwise directed by supplemental order herein.

*It is further ordered*, That the authority herein granted shall not be exercised unless and until the said railway company shall have had on file with this commission for at least 10 days true copies of the mortgages or deeds of trust securing said first-mortgage and second-mortgage bonds in the form in which such mortgages or deeds of trust will be executed.

*It is further ordered*, That, except as herein authorized, said securities shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall within 10 days thereafter report to this commission all pertinent facts relating to (1) the issue of any of said common stock without par value, first-mortgage bonds, and second-mortgage bonds; (2) the exchange of any of said securities for first-mortgage bonds of the Fort Smith & Western Railroad Company; and (3) the acquisition of the property of the Fort Smith & Western Railroad Company; each of said reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to any of said securities, or interest or dividends thereon, on the part of the United States.



6. That the extent to which the public convenience and necessity will be served is that the loan will enable the applicant to secure the funds necessary to meet its maturing obligations, and which it can not secure from other sources except upon terms which are excessive, thus enabling the applicant to preserve its credit and properly to serve the transportation needs of the public.

The application was accompanied by such facts in detail as we required with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as we deemed pertinent to the inquiry.

The applicant's directors and officers have had under consideration for some time the method of refunding the entire issue of \$6,000,000 Elkhorn mortgage gold notes by a proposed issue in series of bonds to be known as applicant's first and consolidated mortgage gold bonds, and the applicant has filed with us an application for authority to issue not to exceed \$7,000,000, principal amount, of these bonds of series A, to be dated November 1, 1921, and payable November 1, 1936, with interest at  $7\frac{1}{2}$  per cent per annum, and \$7,369,000, principal amount, of bonds of series B, to be dated November 1, 1921, and payable November 1, 1971, with interest at 6 per cent per annum, the series-B bonds to be issued solely for the purpose of exchange for series-A bonds at 95 per cent of par under the terms of the mortgage.

The applicant represents to us that as a result of competitive bidding under the provisions of section 10 of the Clayton Act, the best price at which it can dispose of the series-A bonds at this time is on the basis of an interest cost to it of 7.9 per cent.

After investigation we find that the making of the requested loan by the United States for the purposes and in the amounts hereinbefore set forth is necessary in order to enable the applicant properly to meet the transportation needs of the public; that the prospective earning power of the applicant and character and value of the security offered afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan and reasonable protection to the United States, and that the applicant is unable to provide itself with funds necessary for aforesaid purposes from other sources.

We shall expect the applicant as soon as practicable to issue and sell its first and consolidated mortgage bonds upon a reasonable basis and with the proceeds thereof immediately to repay this loan.

An appropriate certificate will be issued.

*Certificate No. 121 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission certifies to the Secretary of the Treasury its findings:

1. That the making of a loan of \$6,000,000 by the United States in two parts as hereinafter set forth to the Carolina, Clinchfield & Ohio Railway, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the applicant, for the purpose of enabling the applicant to meet its maturing indebtedness, is necessary to enable the applicant properly to meet the transportation needs of the public.

2. That the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan.

3. The amount of the loan which is to be made is \$6,000,000.

4. That the time within which the loan is to be repaid in full is one year from January 1, 1922.

5. That the terms and conditions of the loan, including the security to be given for repayment, are:

(a) The loan shall be made in two parts, and shall be secured, as follows: (1) One part of the loan shall be for \$1,000,000 and shall be secured by the repledge of the following-described securities now held by the Secretary of the Treasury pursuant to the terms of certificate No. 114, dated October 10, 1921:

Applicant's 5 per cent Elkhorn first mortgage gold notes, \$1,000,000, principal amount, issued under an indenture of mortgage dated February 1, 1917, executed and delivered by the applicant to the New York Trust Company, as trustee, said notes being a part of an authorized issue of \$6,000,000, principal amount, of said notes, all of which were extended to January 1, 1922, with interest at the rate of 6 per cent per annum pursuant to a supplement to said indenture of mortgage, dated December 15, 1919, between the applicant, the New York Trust Company, and the holders of said notes. Said notes, which before they are repledged, shall have been further extended to January 1, 1923, with interest at 6 per cent per annum, are in denomination of \$1,000, and are numbered as follows:

900 notes, Nos. 827 to 1726..... \$900,000

100 notes, Nos. 1777 to 1876..... 100,000

Applicant's first-mortgage 5 per cent 30-year gold bonds, due 1938, \$500,000, principal amount, issued under an indenture of mortgage, dated June 1, 1908, executed and delivered by the applicant to the Farmers' Loan & Trust Company, as trustee. Said bonds are in definitive coupon form, having coupon due June 1, 1922, and all subsequent coupons attached, are in denomination of \$1,000, and are numbered 13951 to 14450, inclusive.

the transportation act, 1920, as amended, shall be applicable in like manner to secure the repayment of any and all such loans.

6. That the prospective earning power of the applicant, together with the character and value of the security offered, furnishes, in the opinion of the commission, reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and reasonable protection to the United States, and

7. That the applicant, in the opinion of the commission, is unable to provide itself with the funds necessary for the aforesaid purposes from other sources.

Done in Washington, D. C., this 22d day of December, 1921.

70 I. C. C.

## FINANCE DOCKET No. 945.

IN THE MATTER OF THE APPLICATION OF THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING EQUIPMENT AND OTHER ADDITIONS AND BETTERMENTS AND IN MEETING MATURING INDEBTEDNESS.

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*Submitted December 8, 1921. Decided December 23, 1921.*

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Upon supplemental application and consideration thereof, certificate of November 9, 1920, so amended as to authorize substitution of security, in part, for the loan. Previous report, 65 I. C. C., 371.

*M. L. Bell*, for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On November 9, 1920, we issued our report and certificate No. 42 to the Secretary of the Treasury, 65 I. C. C., 371, approving the making of a loan of \$7,862,000 by the United States to the Chicago, Rock Island & Pacific Railway Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to provide itself with additions and betterments.

One of the conditions of the loan was that it should be secured by the pledge of certain of the applicant's first and refunding mortgage bonds, together with certain bonds of the United States Government and of other companies owned by the applicant, among the latter being the following: Crawford County Mining Company first-mortgage 5 per cent bond, due 1937, numbered 5, in a principal amount of \$100,000.

The loan was made by the Secretary of the Treasury on November 20, 1920, and was secured as aforesaid.

On December 8, 1921, the applicant applied to us for permission to substitute in pledge for the Crawford County Mining Company bond a like principal amount of the applicant's first and refunding mortgage, 4 per cent gold bonds, due 1934, in order that said bond may be released to the applicant and by it turned in and canceled under a sinking-fund provision of the mortgage.

After investigation we find that the prospective earning power of the applicant and character and value of the security offered afford reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and to meet its other obligations in connection with such loan, and reasonable protection to the United States; and that the substitution of security as aforesaid should be granted.

An appropriate amending certificate will be issued.

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*Amendment to Certificate No. 42, for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby further amends its certificate No. 42, dated November 9, 1920, for a loan of \$7,862,000 by the United States to the Chicago, Rock Island & Pacific Railway Company, hereinafter referred to as the applicant, under section 210 of the transportation act, 1920, as amended, by authorizing the pledge in lieu of, and in substitution for, the security in part for the loan, said security consisting of a Crawford County Mining Company first-mortgage 5 per cent gold bond, due 1937, said bond being in a principal amount of \$100,000 and numbered 5; the following-described securities:

Applicant's first and refunding mortgage 4 per cent gold bonds, due 1934, \$100,000, principal amount, issued under an indenture of mortgage dated April 1, 1904, executed by the applicant to the Central Union Trust Company, of New York, and David R. Francis, as trustees. Said bonds are in definitive coupon form, having coupon due April 1, 1922, and subsequent coupons attached, are in the denomination of \$1,000, and are numbered 123521 to 123620, inclusive.

Done at Washington, D. C., this 23d day of December, 1921.

## FINANCE DOCKET No. 1146.

IN THE MATTER OF THE APPLICATION OF THE  
CHICAGO & EASTERN ILLINOIS RAILWAY COMPANY  
FOR AUTHORITY TO ISSUE SECURITIES, TO ASSUME  
OBLIGATIONS, AND TO PLEDGE BONDS AS SECURITY  
FOR LOANS FROM THE UNITED STATES.

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*Approved December 23, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, AND EASTMAN.

THIRD SUPPLEMENTAL ORDER.<sup>1</sup>

Upon reading and filing the applicant's petition for an order further amending our orders heretofore entered herein, and the affidavit of Will H. Lyford verified December 20, 1921, and the exhibits attached thereto, and upon further consideration of the record herein and for good and sufficient cause:

*It is ordered,* That the time for filing copies of certain mortgages, trust indentures, and other written instruments, specimens of certain securities, and certain proofs by affidavit, heretofore by order of this commission of February 3, 1921, made contingent upon the time of the issue or pledge of, or assumption of obligation or liability in respect of certain securities, be, and the same is hereby, fixed as of the date hereof.

*It is further ordered,* That said affidavit of Will H. Lyford, filed this day, together with the exhibits attached thereto and referred to therein, be, and the same are hereby, approved and accepted as in substantial compliance with the requirements of the said order of February 3, 1921, with respect to said copies, specimens, and proofs by affidavit.

*It is further ordered,* That the forms of mortgages, bonds, certificates of stock, and scrip attached as exhibits to said affidavit of Will H. Lyford, be, and the same are hereby, approved.

*It is further ordered,* That the applicant be, and it is hereby, authorized to issue securities substantially in the forms attached as exhibits to said affidavit of Will H. Lyford, for the purposes and in the amounts heretofore authorized by this commission.

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<sup>1</sup> See 67 I. C. C., 61, 762; 70 I. C. C., 589.

*It is further ordered*, That the time within which the applicant may issue securities as authorized in said order of February 3, 1921, as amended June 16, 1921, be, and the same is hereby, extended from January 1, 1922, to February 28, 1922.

*And it is further ordered*, That, except as herein modified, said order of February 3, 1921, as amended June 16, 1921, and as modified November 2, 1921, shall remain in full force and effect.

70 I. C. C.



## FINANCE DOCKET No. 1677.

## IN THE MATTER OF THE APPLICATION OF THE ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY FOR AUTHORITY TO ISSUE PRIOR-LIEN BONDS.

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*Submitted December 16, 1921. Decided December 23, 1921.*

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Authority granted to issue \$2,122,000 of prior-lien mortgage bonds, series C; said bonds, or any part thereof, to be pledged and repledged, from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act.

*W. F. Evans* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The St. Louis-San Francisco Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$2,122,000 of its prior-lien 6 per cent gold bonds, series C, for pledge and repledge, from time to time, as collateral security for any note or notes which it may issue within the limitations prescribed by paragraph (9) of section 20a of the interstate commerce act without our authorization having first been obtained. No objection to the granting of the application has been made.

The applicant also desires authority to sell the bonds at not less than 90, but in view of its statement that they can not be sold on reasonable terms at the present time and that no arrangements for their sale have been made, disposition of that part of the application can not be made on the present record.

The prior-lien mortgage, dated July 1, 1916, made by the applicant to the Central Trust Company of New York (now the Central Union Trust Company of New York) and Daniel K. Catlin, authorizes a total issue of bonds not exceeding \$250,000,000. Section 6 of article two of the mortgage provides that bonds in the amount of \$32,500,000 shall be authenticated by the corporate trustee and delivered to the applicant for certain purposes therein specified, including construction by the applicant or any controlled or subsidiary company of additional second, third, and fourth main track, purchase of additional real estate, acquisition or construction of other property,

and the making of additions, improvements, and betterments. Of the bonds so reserved applicant has heretofore had \$6,792,000 authenticated and delivered, and, by our order dated October 21, 1921, in *Bonds of St. Louis-San Francisco Ry.*, 70 I. C. C., 537, is authorized to issue \$3,663,500 additional. Excluding the latter amount, there remain \$22,044,500 of bonds available for purposes stated in section 6.

In support of the issue here proposed, the applicant submits that between January 1 and August 31, 1921, it expended out of income \$2,122,188.54 for the purposes herein enumerated.

The bonds bear interest at the rate of 6 per cent per annum, mature July 1, 1928, and are redeemable on 60 days' notice at a premium of 2½ per cent.

We find that the proposed issue of prior-lien bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service; and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That, in order to reimburse its treasury for expenditures made therefrom for capital purposes, as set forth in the application, the St. Louis-San Francisco Railway Company be, and it is hereby, authorized to issue not exceeding \$2,122,000, principal amount, of prior-lien mortgage gold bonds, series C, under and purchased by it to the Central Trust Company of New York (now the Central Union Trust Company of New York) and Daniel K. Catlin; said bonds to be dated July 1, 1918, to bear interest at the rate of 6 per cent per annum, payable semiannually on January 1 and July 1, and to mature July 1, 1928; said bonds, or any part thereof, to be pledged and repledged, from time to time, until otherwise ordered by this commission, as collateral security for any note or notes which may be issued by the applicant within the limitations of paragraph

70 I. C. C.

(9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained; said pledge or pledges to be in the ratio of not exceeding \$125 of bonds in value at their prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That, within 10 days after the pledge or repledge of any of its bonds as herein authorized, the applicant shall file with this commission certificates of notification to that effect; and within 10 days after the release of said bonds from such pledge, shall report to this commission all pertinent facts relating thereto.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1667.

IN THE MATTER OF THE APPLICATION OF THE EL PASO & SOUTHWESTERN COMPANY FOR AUTHORITY TO ACQUIRE CONTROL OF THE ARIZONA & NEW MEXICO RAILWAY COMPANY AND TO ISSUE NOTES, AND OF A JOINT APPLICATION FOR AN ORDER AUTHORIZING THE EL PASO & SOUTHWESTERN RAILROAD COMPANY TO LEASE THE ARIZONA & NEW MEXICO RAILWAY.

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*Submitted December 17, 1921. Decided December 24, 1921.*

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1. Acquisition by the El Paso & Southwestern Company of control of the Arizona & New Mexico Railway Company by purchase of its capital stock approved and authorized.
2. Authority granted the El Paso & Southwestern Company to issue not to exceed \$3,500,000 of promissory notes to mature in not more than two years from their date of issue and to bear interest at a rate not to exceed 6 per cent per annum; said notes to be delivered directly at par or to be sold at par and the proceeds used in part payment of the purchase price of all of the outstanding stock and bonds of the Arizona & New Mexico Railway Company.
3. Acquisition by the El Paso & Southwestern Railroad Company of control of the railroad of the Arizona & New Mexico Railway Company, by lease, approved and authorized.

*William Church Osborn and I. V. Weisbrod for applicant.*

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The El Paso & Southwestern Company, hereinafter called the Southwestern Company, the El Paso & Southwestern Railroad Company, hereinafter called the Railroad Company, and the Arizona & New Mexico Railway Company, hereinafter called the Arizona Company, carriers by railroad subject to the interstate commerce act, on November 3, 1921, filed an application, as follows:

The Southwestern Company seeks authority, pursuant to paragraph (2) of section 5 of the interstate commerce act, to acquire control of the Arizona Company by purchase of its capital stock, and for authority under section 20a to issue \$3,500,000 of short-term notes for the purpose of purchasing the stock and bonds of the Arizona Company.

The Southwestern Company, the Railroad Company, and the Arizona Company ask that authority be granted to the Railroad Company, pursuant to paragraph (2) of section 5, to acquire control, by lease, of the railroad of the Arizona Company and to operate the same.

No representations have been made by any State authorities either in favor of or against the granting of the application. A hearing was held upon this application as provided by law.

The Southwestern Company is a holding and operating company. It operates as one system railroads in New Mexico, Texas, and Arizona and makes one report to us for the combined railroads. It operates the western division of its system, consisting of the line from the western border of Texas to Tucson, Ariz., together with the branches thereof, through the Railroad Company, and owns the entire outstanding capital stock of that company.

The railroad of the Arizona Company extends from a connection with the line of the Railroad Company at Hachita, N. Mex., in a northwesterly direction to Clifton, Ariz., a distance of approximately 108 miles. It forms a junction with the Morenci Southern Railway, a line of narrow-gauge railroad, 18.41 miles long, controlled by the Southwestern Company, at Guthrie, N. Mex. The Arizona Company's line is the only railroad into one of the largest mining districts in Arizona. It does not parallel or compete with the system controlled by the Southwestern Company. It is stated that control of the Arizona Company by the Southwestern Company will result in a freer interchange of traffic and equipment, and that the line of the Arizona Company can be operated by the Southwestern Company without any increase in its management expenses. The general balance sheet of the Arizona Company as of August 31, 1921, showed an investment in road and equipment of \$4,688,277.55, a profit-and-loss credit balance of \$349,001.52, and a total corporate surplus of \$960,151.35. For the year ending December 31, 1920, its operating revenues were \$643,872.25, its railway operating income was \$78,206.34, and its net income was \$213,244.79. It is stated that there is approximately \$600,000 in net cash resources in its treasury.

The Southwestern Company asks authority to issue at par, in part payment for the purchase of all of the outstanding capital stock and bonds of the Arizona Company, not to exceed \$3,500,000 of promissory notes to mature in not more than two years from their date of issue and to bear interest at the rate of 6 per cent per annum. The Arizona Company has an authorized capital stock of \$3,000,000, of which \$2,770,000 has been issued and is outstanding. It also has outstanding an aggregate principal amount of 266,000 pounds sterling

of 6 per cent mortgage bonds, carried in its balance sheet at a value of \$1,294,533.32. All the outstanding stock and bonds of the Arizona Company are owned by the Arizona Copper Company, Limited, through the Western Investment Company, a New Jersey corporation. The Southwestern Company proposes to purchase all of this outstanding stock and bonds, paying therefor the sum of \$4,500,000. Of this amount \$1,000,000 will be paid in cash and the remaining \$3,500,000 will be represented by promissory notes of a maturity of not more than two years from date of issue and bearing interest at the rate of not to exceed 6 per cent per annum. These proposed notes, together with all other now outstanding notes of the Southwestern Company of a maturity of two years or less, will aggregate more than 5 per cent of the par value of that company's securities now outstanding. The proposed notes will be delivered directly or will be disposed of and the proceeds used for the above purpose. In either event the notes will be disposed of at par and without arrangement or contract with any agent. The proposed notes will be secured by the pledge of collateral, no part of which consists of the Southwestern Company's own obligations.

The Railroad Company asks authority to acquire control, by lease, of the railroad of the Arizona Company. The Southwestern Company, as sole stockholder of the Railroad Company, joins in this request. By the terms of the proposed lease the Arizona Company demises its railroad to the Railroad Company for the term of one year, or until the expiration of 30 days after notice of termination is served by either of the parties thereto, and assigns all contract rights and privileges, so far as they may lawfully be transferred. The Railroad Company proposes to pay to the Arizona Company, as rental, a sum sufficient to enable it to pay the interest on its bonded indebtedness, its taxes, and to maintain its corporate organization. Additions and betterments will be charged against the capital account of the Arizona Company. As long as the Southwestern Company remains the owner of the capital stock of the Arizona Company the payments accruing under the lease will be a mere matter of bookkeeping. It is stated that the proposed lease will effect economies in operation and accounting and will assure to the shippers in this territory the benefits of more dependable railroad service.

For the five years ending December 31, 1920, the Arizona Company paid dividends as follows: 1916, 3 per cent; 1917, 7 per cent; 1918, 7½ per cent; 1919, 5 per cent; 1920, 1½ per cent. The net railway operating income for the same period was: 1916, \$362,674.96; 1917, \$317,546.73; 1918, \$346,410.24; 1919, \$144,713.03; 1920, \$74,906.07. The income from securities owned and from sinking and other reserve funds for this five-year period totaled \$115,932.12. In 1920

there was credited to miscellaneous income \$166,548.81, which was received from the United States Government in settlement of a claim under section 209 of the transportation act, and a further sum of \$19,717.25 representing a profit on sterling exchange in remitting interest on bonded indebtedness. No tentative valuation of the Arizona Company's railroad has been made by our Bureau of Valuation. An engineering report has been made and served on the carrier. This report shows cost of reproduction new, as of June 30, 1917, \$4,373,691, less depreciation, \$3,740,522. It is stated in the application that the value of the land of the Arizona Company is \$212,120.18 and that it has materials and supplies on hand of the value of \$32,905.

Upon the facts presented we find:

1. That the acquisition by the El Paso & Southwestern Company of control of the Arizona & New Mexico Railway Company by purchase of its capital stock, as described in the application, will be in the public interest.

2. That the proposed issuance of \$3,500,000 of promissory notes by the El Paso & Southwestern Company for the aforesaid purpose (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose; and

3. That the acquisition by the El Paso & Southwestern Railroad Company of control of the railroad of the Arizona & New Mexico Railway Company under the terms of the lease described in the application will be in the public interest.

An appropriate order will be entered.

### ORDER.

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That acquisition by the El Paso & Southwestern Company of control of the Arizona & New Mexico Railway Company, by purchase of its capital stock, as described in the application and report aforesaid, be, and the same is hereby, approved and authorized.

*It is further ordered,* That the El Paso & Southwestern Company be, and it is hereby, authorized, as part of the purchase price of all



of the outstanding capital stock and bonds of the Arizona & New Mexico Railway Company, to issue not to exceed \$3,500,000, aggregate face amount, of promissory notes, to bear interest at a rate not exceeding 6 per cent per annum, to mature in not more than two years from date thereof and to be substantially in the form submitted with the application, said notes to be delivered at par directly or to be sold at par and the proceeds used for the aforesaid purpose.

*It is further ordered*, That, except as herein authorized said notes shall not be sold, pledged, repledged, or otherwise disposed of by the El Paso & Southwestern Company, unless and until so authorized by this commission.

*It is further ordered*, That the El Paso & Southwestern Company shall report to this commission within 10 days thereafter, respectively, all pertinent facts relating to (1) the execution of the notes herein authorized, (2) the disposition of said notes and, if sold, of the proceeds thereof, and (3) the payment or satisfaction of said notes; each of said reports to be signed and verified by an executive officer having knowledge of the facts.

*It is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

*And it is further ordered*, That the El Paso & Southwestern Railroad Company be, and it is hereby, authorized to acquire control of the railroad of the Arizona & New Mexico Railway Company in accordance with the terms of the lease described in the application and the report aforesaid: *Provided*, That the authorization herein given is upon the express condition that the El Paso & Southwestern Company shall not sell, pledge, or otherwise dispose of the capital stock or bonds of the Arizona & New Mexico Railway Company, or any part thereof, without the consent of the Interstate Commerce Commission.

## FINANCE DOCKET No. 1804.

## IN THE MATTER OF THE APPLICATION OF THE ALABAMA GREAT SOUTHERN RAILROAD COMPANY FOR AUTHORITY TO PROCURE AUTHENTICATION AND DELIVERY OF MORTGAGE BONDS.

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*Submitted December 10, 1921. Decided December 24, 1921.*

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Authority granted to procure authentication and delivery to applicant's treasurer of \$1,232,000 of first consolidated mortgage 5 per cent gold bonds, to be held in the treasury until the further order of the commission.

*L. E. Jeffries* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Alabama Great Southern Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to procure authentication and delivery to its treasurer by the trustee of \$1,232,000 of first consolidated mortgage 5 per cent gold bonds. No objection to the granting of the application has been offered.

By the provisions of the applicant's first consolidated mortgage dated December 1, 1913, to the Guaranty Trust Company of New York and Guy Cary, a copy of which has been filed with us, the applicant is authorized to issue bonds under subsection B of section 4 of article three thereof, for the purpose of reimbursing its treasury for expenditures incurred in double-tracking its line from Wauhatchie, Tenn., to Meridian, Miss., in an amount not to exceed \$30,000 per mile of second track. The total amount of bonds which may be thus issued is limited to \$8,650,000, of which \$500,000 have heretofore been issued. The applicant shows that to September 30, 1921, it has expended for such purpose the sum of \$732,188.55, none of which has been capitalized, and that it is therefore entitled to draw down \$732,000 of bonds in respect thereof.

Under section 5 of article three of the mortgage, the applicant is authorized to issue bonds not to exceed a total aggregate amount of \$7,813,500, and not exceeding \$500,000 in any calendar year after December 31, 1917, for the purpose of reimbursing its treasury for expenditures made for the acquisition of property and for improvements and additions and betterments. Bonds to the amount of

\$500,000 have heretofore been issued under this section, but no bonds have been issued thereunder thus far in the current calendar year. The applicant shows that to September 30, 1921, it has expended for such purposes approximately \$741,005.71, none of which has been capitalized, and that it is therefore entitled to draw down \$500,000 of bonds in reimbursement of those expenditures.

The bonds which the applicant proposes to have authenticated and delivered by the trustee to its treasurer will mature on December 1, 1943, and will bear interest at the rate of 5 per cent per annum. A total amount of \$25,000,000 of bonds is authorized under the mortgage, of which \$4,313,000 have heretofore been issued—\$4,312,000 being outstanding and \$1,000 being held by the applicant in its treasury. The applicant proposes to hold in its treasury until our further order the \$1,232,000 of bonds for the authentication and delivery of which authority is now sought.

We find that the proposed procurement of authentication and delivery of bonds by the trustee to the treasurer of the applicant as aforesaid (a) is for a lawful object within the applicant's corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That, in order that it may reimburse its treasury for expenditures to the extent of \$1,232,000 for capital purposes which have not heretofore been capitalized, the Alabama Great Southern Railroad Company be, and it is hereby, authorized to procure authentication and delivery by the corporate trustee to its treasurer of \$1,232,000, principal amount, of its first consolidated mortgage gold bonds, series A, under and pursuant to, and to be secured by, the first consolidated mortgage dated December 1, 1913, made by the applicant to the Guaranty Trust Company of New York and Guy Cary; said bonds to be dated December 1, 1913, to bear interest at the rate of 5 per cent per annum, payable semiannually on June 1, and December 1, and to mature December 1, 1943, and, when so authenti-

cated and delivered by the trustee, to be held in the treasury of the applicant.

*It is further ordered*, That said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That, within 10 days thereafter, the applicant shall report to this commission all pertinent facts relating to the authentication and delivery of said bonds to its treasurer; such report to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 2037.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO, INDIANAPOLIS &amp; LOUISVILLE RAILWAY COMPANY FOR AUTHORITY TO ISSUE BONDS.

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*Submitted December 20, 1921. Decided December 27, 1921.*

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Authority granted to issue \$3,493,000 of first and general mortgage gold bonds, series B, in exchange for an equal amount of 5 per cent gold bonds, series A; \$3,000,000 of said series-B bonds to be sold at not less than 90, and accrued interest; and all or any part of \$493,000 of said series-B bonds to be pledged and repledged, from time to time, until otherwise ordered, as security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act. Terms and conditions prescribed.

*Sherman & Sterling* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago, Indianapolis & Louisville Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act (1) to issue \$3,493,000 of first and general mortgage 6 per cent gold bonds, series B, in exchange for an equal amount of its first and general mortgage 5 per cent gold bonds, series A; (2) to sell \$3,000,000 of said series-B bonds; and (3) to pledge and repledge, from time to time, \$493,000 of said series-B bonds as collateral security for any note or notes which it may issue within the limitations prescribed by paragraph (9) of section 20a of that act, without first obtaining our authority therefor. No objection has been made to the granting of the authority requested.

By our order in *Pledge of Bonds by Chic., Indpls. & Louisv. Ry.*, 67 I. C. C., 750, we authorized the applicant to pledge and repledge, from time to time, all or any part of \$3,493,000 of first and general mortgage 5 per cent gold bonds, series A, as collateral security for any note or notes which it might issue under paragraph (9) of section 20a of the interstate commerce act. Of these bonds \$2,100,000 are pledged for a loan of \$1,400,000 from the War Finance Corporation; \$233,000 for a loan of \$200,000, since reduced by payment to \$155,000, from the United States under section 210 of the transportation act, 1920, as amended, covered by our certificate No. 36, dated October 19, 1920, in *Loan to Chicago, Indianapolis & Louisville Ry.*,

65 I. C. C., 298; and \$1,160,000 are held unencumbered in the applicant's treasury.

Authority is now sought to issue \$3,493,000 of first and general mortgage 6 per cent gold bonds, series B, which are to be exchanged for the aforesaid 5 per cent series-A bonds. The bonds proposed to be issued will be dated January 2, 1922, and will mature May 1, 1966. Upon such exchange, the series-A bonds are to be canceled. Authority is also requested by the applicant to sell \$3,000,000 of the series-B bonds to procure funds to reimburse its treasury for amounts heretofore appropriated from income for additions and betterments. The proceeds will be used to pay off its indebtedness to the War Finance Corporation in the amount aforesaid, and for other lawful corporate purposes. Authority is also requested to pledge and repledge, from time to time, all or any part of \$493,000 thereof for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act. The applicant represents that the series-B bonds can be sold on more favorable terms at the present time than the series-A bonds.

The proposed series-B bonds are to be issued under the first and general mortgage dated May 1, 1916, and supplement thereto dated March 1, 1917, made by the applicant to the Guaranty Trust Company of New York and William L. Taylor, trustee, which authorizes the issue of not exceeding \$40,000,000 of bonds, \$6,754,000 of which have been heretofore issued.

Arrangements have been made to sell \$3,000,000 of the series-B bonds at not less than 90 per cent of par and accrued interest. Should the banking house purchasing the bonds be able to resell them at an advance in excess of 3 per cent, the applicant will share such excess equally with the banking house. On the basis of 90, the annual cost to the applicant will be approximately 6½ per cent on the proceeds of the bonds.

We find that the proposed issue of series-B bonds by the applicant as aforesaid (a) is for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclu-

sions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Chicago, Indianapolis & Louisville Railway Company be, and it is hereby, authorized to issue \$3,493,000, principal amount, of first and general mortgage 6 per cent gold bonds, series B, under and pursuant to, and to be secured by, the first and general mortgage dated May 1, 1916, and supplement thereto dated March 1, 1917, made by the applicant to the Guaranty Trust Company of New York and W. L. Taylor, trustees, in exchange for an equal amount of first and general mortgage 5 per cent gold bonds, series A (now held in its treasury or pledged as collateral as set forth in the application); said bonds to be dated January 2, 1922, to mature May 1, 1966, and to bear interest at the rate of 6 per cent per annum, payable semiannually; \$3,000,000, principal amount, of said series-B bonds to be sold at not less than 90 per cent of par and accrued interest, and proceeds thereof to be used solely for the purposes set forth in the application; and all or any part of \$493,000, principal amount, thereof to be pledged and repledged from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued within the limitations of paragraph (9) of section 20a of the interstate commerce act without the authorization of this commission therefor having first been obtained, such pledges or repledges to be in the ratio of not exceeding \$125 of bonds in value at their prevailing market price at the time of pledge for each \$100, face amount, of notes.

*It is further ordered*, That, except as herein authorized, said series-B bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That as and when said series-A bonds are received in exchange for series-B bonds said series-A bonds shall be canceled.

*It is further ordered*, That the applicant, within 10 days thereafter, respectively, shall report to this commission all pertinent facts relating to the issue and sale of said series-B bonds, as herein authorized, and to the cancellation of said series-A bonds; within 10 days after the pledge or repledge of any of said series-B bonds, as herein authorized, shall file with this commission certificates of notification to that effect; and within 10 days after the release of said bonds from such pledge shall report to this commission all pertinent facts relating thereto; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.



## FINANCE DOCKET No. 971.

## IN THE MATTER OF THE APPLICATION OF THE INDIANA HARBOR BELT RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING ADDITIONS AND BETTERMENTS.

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*Submitted November 17, 1921. Decided December 28, 1921.*

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Upon supplemental application in respect of the loan for additions and betterments and consideration thereof, authority granted to offset underruns against overruns in expenditures and to use net underruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Certificate No. 72 of February 7, 1921, so amended as to provide that the time within which the applicant shall expend or definitely obligate the loan in respect of additions and betterments be extended from January 1, 1922, to July 1, 1922. Previous report, 67 I. C. C., 89.

*Albert H. Harris* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

By DIVISION 4:

On February 7, 1921, we issued our report and certificate No. 72 to the Secretary of the Treasury, 67 I. C. C., 89, approving the making of a loan of \$579,000 by the United States to the Indiana Harbor Belt Railroad Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of enabling the applicant to provide itself with additions and betterments to way and structures.

One of the conditions of the loan was that the applicant should furnish progress reports as to its expenditures from the proceeds of the loan on July 1, 1921, and January 1, 1922, and that the entire loan should have been expended or definitely obligated for the purposes for which loaned, or the entire loan should be repaid to the United States, on or before January 1, 1922.

On September 7, 1921, the applicant filed with us detailed statements showing expenditures made as of July 1, 1921. On the same date applicant made application to us for authority to offset underruns against overruns in expenditures and to use net underruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts desired to be curtailed, abandoned, or de-

ferred. Applicant also requested that the time within which it shall expend or definitely obligate the proceeds of the loan be extended from January 1, 1922, to July 1, 1922.

The applicant represented to us that because of the great decrease in traffic on its line since its application for a loan was granted the necessity for the facilities described have not been so urgent as they would have been under normal traffic conditions. The applicant further represented to us that each of the projects involved, in addition to expenditures chargeable to capital account, expenditures chargeable to operating expenses which the earnings did not permit of incurring. For these reasons and because of the high costs of labor and materials during the past year the applicant represented that it did not feel warranted in proceeding with the projects above mentioned.

After investigation and informal hearings we find that the requested authority should be granted and that the time within which the applicant shall expend or definitely obligate the proceeds of the loan should be extended from January 1, 1922, to July 1, 1922.

We further find that the following purposes, which will be the basis of future reports of progress by the applicant, are necessary to enable the applicant properly to meet the transportation needs of the public:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<i>Additions and betterments.</i>			
Norpaul, Ill.:			
10-stall addition to roundhouse.....	\$75,000	.....	\$75,000
Additional water facilities.....	29,000	.....	29,000
250-horsepower boiler.....	9,000	.....	9,000
Boiler washout system.....	21,000	.....	21,000
Oil and store house.....	24,000	.....	24,000
Machine tools.....	15,000	.....	15,000
Air compressor.....	8,755	.....	8,755
Additional yard tracks.....	153,084	.....	153,084
Yard flood lights.....	3,611	.....	3,611
La Grange, Ill.:			
Interchange tracks C., B. & Q. R. R.....	33,800	.....	33,800
Calumet Park, Ill.:			
Second main track connection with Mich. Cent. R. R. across So. Chic. & Sn. R. R.....	10,500	.....	10,500
Burnham, Ill.:			
Water facilities.....	10,500	.....	10,500
Argo, Ill.:			
Crossover.....	1,500	.....	1,500
On line:			
Radial buffers to B-10 and B-11 locomotives.....	700	.....	700
Steam grate shakers to H-5 and U-1 locomotives.....	2,600	.....	2,600
Adjustable driving-box wedges to H-5 and U-1 locomotives.....	600	.....	600
Power-reverse gears to locomotives.....	156	.....	156
10 cabooses.....	27,797	.....	27,797
One 20-ton crane.....	21,147	.....	21,147
La Grange, Ill.:			
Third and fourth main tracks.....	102,500	.....	102,500
West Hammond, Ill.:			
Right of way.....	3,000	.....	3,000
Calumet Park, Ill.:			
Stockyard improvements.....	25,750	.....	25,750
Total additions and betterments.....	579,000	.....	579,000

Our certificate of February 7, 1921, will be amended accordingly.

*Amendment to Certificate No. 72 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 72, of February 7, 1921, to the Secretary of the Treasury, approving the making of a loan of \$579,000 by the United States to the Indiana Harbor Belt Railroad Company, hereinafter referred to as the applicant, by changing subparagraph (g) of paragraph 5 to read as follows:

(g) The applicant has agreed in an instrument in writing dated January 31, 1921, supplemented December 30, 1921, and filed with the Interstate Commerce Commission, to the following conditions: (1) The expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (2) the applicant shall furnish the commission, on or about July 1, 1921, January 1, 1922, and July 1, 1922, the detailed certificate under oath of its chief engineer, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan shall have been expended or definitely obligated for the purposes for which loaned, or the entire loan shall be repaid to the United States, on or before July 1, 1922.

Done in Washington, D. C., this 4th day of January, 1922.

70 I. C. C.

## FINANCE DOCKET No. 999.

## IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN ACQUIRING EQUIPMENT AND ADDITIONS AND BETTERMENTS.

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*Submitted November 17, 1921. Decided December 28, 1921.*

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Upon supplemental application in respect of the loan for additions and betterments and consideration thereof, authority granted to offset underruns against overruns in expenditures and to use net underruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Certificate No. 53, of December 22, 1920, so amended as to provide that the time within which the applicant shall expend or definitely obligate the loan in respect of additions and betterments be extended from January 1, 1922, to July 1, 1922. Previous report, 65 I. C. C., 503.

*Albert H. Harris* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:.

On December 22, 1920, we issued our report and certificate No. 53 to the Secretary of the Treasury, 65 I. C. C., 503, approving the making of a loan of \$26,775,000 by the United States to the New York Central Railroad Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of aiding the applicant and certain of its subsidiary companies, hereinafter named, in providing themselves with equipment and other additions and betterments.

The subsidiaries of the applicant participating in the benefits of the loan are the following:

Michigan Central Railroad Company,  
Cleveland, Cincinnati, Chicago & St. Louis Railway Company,  
Cincinnati Northern Railroad Company,  
Toledo & Ohio Central Railway Company,  
Zanesville & Western Railway Company,  
Kanawha & Michigan Railway Company, and  
Lake Erie & Western Railroad Company.

The loan was made in two parts: \$14,850,000 applicable to equipment and additions and betterments to existing equipment, and \$11,925,000 applicable to additions and betterments to way and structures.

One of the conditions of the loan was that the applicant should furnish progress reports as to its expenditures from the proceeds of the loan for additions and betterments on July 1, 1921, and January 1, 1922, and that the entire loan for additions and betterments should have been expended or definitely obligated for the purposes for which loaned, or the entire loan for additions and betterments should be repaid to the United States, on or before January 1, 1922.

On September 19, 1921, the applicant filed with us detailed statements showing expenditures made as of July 1, 1921, from the proceeds of the loan for additions and betterments and requested that authority be granted it to offset underruns against overruns in expenditures and to use net underruns for specific other purposes and to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts desired to be curtailed, abandoned, or deferred. Applicant also requested that the time within which it shall expend or definitely obligate the proceeds of the loan in respect of additions and betterments be extended from January 1, 1922, to July 1, 1922.

After investigation and informal hearings we find that the requested authority should be granted and that the time within which the applicant shall expend or definitely obligate the proceeds of the loan in respect of additions and betterments should be extended from January 1, 1922, to July 1, 1922.

We further find that the following purposes, which will be the basis of future reports of progress by the applicant, are necessary to enable the applicant and its subsidiary companies properly to meet the transportation needs of the public:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<i>New York Central.</i>			
<b>Additions and betterments to way and structures:</b>			
Mott Haven, rebuilding interlocking plant, M. J.....	\$3,316.00	.....	\$3,316.00
Mott Haven, rebuilding interlocker, M. O.....	5,174.00	.....	5,174.00
Dewitt, addition to enginehouse.....	253,709.00	\$241,238.00	7,500.00
Syracuse, track scale.....	17,243.00	6,678.00	10,565.00
East Rochester, additional storage tracks.....	13,000.00	8,432.00	4,568.00
Rochester, enginehouse improvements.....	53,567.00	52,600.00	967.00
Barnard, storage siding.....	4,902.00	2.00	4,900.00
Utica, new wheel pit and repair building.....	22,791.00	22,481.00	310.00
East Syracuse, raising sand spouts.....	419.00	12.00	407.00
East Syracuse, raising coal chutes.....	612.00	12.00	600.00
Rensselaer, coaling plant.....	283,674.00	.....	283,674.00
Harmon, traveling crane for shops.....	13,200.00	.....	13,200.00
Harmon, wheel lathe for shops.....	10,475.00	.....	10,475.00
Harmon, drill press for shops.....	480.00	.....	480.00
Harmon, mortising machine.....	1,000.00	.....	1,000.00
Harmon, planer.....	1,230.00	.....	1,230.00
Harmon, armature machine.....	2,250.00	.....	2,250.00
White Plains, auxiliary feeder SS-9 to North White Plains.....	19,900.00	.....	19,900.00
West Albany, ash-handling conveyer.....	8,000.00	.....	8,000.00
East Syracuse, rebuilding coaling plant.....	49,703.00	3,705.00	46,000.00
Belle Isle, water facilities.....	28,419.00	.....	28,419.00
East Buffalo, 2 wheel tracks.....	1,583.00	.....	1,583.00
Avis, new station.....	3,500.00	.....	3,500.00







Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<i>Michigan Central—Continued.</i>			
Additions and betterments to way and structures, etc.—Con.			
Dayton, passing track.....	\$21,269.41	.....	\$21,269.41
Buchanan, passing track.....	28,908.41	.....	28,908.41
Frankfort, extend track.....	16,526.54	.....	16,526.54
Spencer, passing track.....	8,154.07	.....	8,154.07
Lansing, improvement in yard and engine facilities.....	21,759.69	.....	21,759.69
Lansing, three storage tracks.....	9,390.90	.....	9,390.90
Niles, new engine terminal.....	2,656,331.18	\$2,542,553.62	113,777.56
Total.....	2,831,802.81	2,546,325.37	285,477.44
Additions and betterments to way and structures (projects to be substituted):			
Niles, eastbound receiving yard, etc.....	324,934.56	.....	324,934.56
Additions and betterments to equipment (projects completed):			
Steel underframes to 200 cars.....	3,346.00	.....	3,346.00
Outside metal roofs to 200 cars.....	882.00	.....	882.00
Steel car lines to 200 cars.....	1,018.00	.....	1,018.00
Cast-steel coupler yokes.....	830.00	.....	830.00
Steel ends, 500 cars.....	39,701.61	3,717.61	35,984.00
Rebuild 1,000 30-ton and 40-ton box cars.....	1,814,228.00	.....	1,814,228.00
Total.....	1,860,005.61	3,717.61	1,856,288.00
Additions and betterments to equipment (projects in progress):			
St. Thomas, apply power-reverse gear, 17 locomotives.....	14,450.00	1,350.00	13,100.00
Jackson, apply power-reverse gear, 30 locomotives.....	4,576.00	676.00	3,900.00
Jackson, apply water scoops, 20 locomotives.....	.....	.....	.....
Total.....	19,026.00	2,026.00	17,000.00
Additions and betterments to equipment (projects not started):			
Jackson, apply power-reverse gears to 20 locomotives.....	10,900.00	.....	10,900.00
Jackson, apply air signals to 20 locomotives.....	3,400.00	.....	3,400.00
Total.....	14,300.00	.....	14,300.00
Grand total for Michigan Central Railroad.....	5,050,068.98	2,552,068.98	2,498,000.00
<i>Cleveland, Cincinnati, Chicago &amp; St. Louis.</i>			
Additions and betterments to way and structures (projects completed):			
Linndale, air compressor, electric.....	10,581.00	.....	10,581.00
Springfield, electric flue welder.....	1,510.00	.....	1,510.00
Sharonville, electric flue welder.....	1,485.00	.....	1,485.00
Bellefontaine, electric flue welder.....	1,375.00	.....	1,375.00
Bellefontaine, air lines.....	2,618.00	1,226.00	1,392.00
South Anderson, electric flue welder.....	1,608.00	.....	1,608.00
Brightwood, electric air compressor.....	8,960.00	.....	8,960.00
Brightwood, electric flue welder.....	1,825.00	.....	1,825.00
Nokomis, storage tracks.....	29,500.00	.....	29,500.00
Storrs, crossover.....	4,757.00	.....	4,757.00
Hagerstown, turntable.....	2,970.00	100.00	2,870.00
Hill Yard, wye connection.....	10,630.00	2,214.00	8,416.00
Hill Yard (west), electric air compressor.....	12,195.00	.....	12,195.00
Kankakee, turntable.....	24,300.00	543.00	23,757.00
Lyons, track scales.....	13,241.00	4,721.00	8,520.00
Lyons, turntable.....	24,308.00	406.00	23,902.00
Elkhart, turntable.....	4,000.00	800.00	3,110.00
Total.....	155,863.00	10,100.00	145,763.00
Additions and betterments to way and structures (projects in progress):			
Berea to Crestline, automatic signals.....	206,500.00	.....	206,500.00
Columbia, westward siding.....	4,200.00	1,506.00	2,694.00
Shelby, sidings.....	19,700.00	8,825.00	10,875.00
Galion, rearranging tracks.....	51,900.00	8,723.00	43,177.00
Galion, electric flue welder.....	1,700.00	.....	1,700.00
St. James, extend westward siding.....	10,000.00	.....	10,000.00
Leonardsburg, extend westward siding.....	14,400.00	.....	14,400.00
Columbus, 5 yard tracks (north yard).....	101,370.00	22,573.00	78,797.00
Columbus to Avenue, second track.....	539,095.00	389,739.00	149,356.00
Dayton, extend siding.....	6,700.00	.....	6,700.00
Dayton, 2 sidings.....	17,394.00	6,823.00	10,571.00
Miamisburg, eastward siding.....	8,800.00	2,364.00	6,436.00
Carlisle Junction, sidings.....	14,200.00	4,456.00	9,744.00



Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<i>Cleveland, Cincinnati, Chicago &amp; St. Louis—Continued.</i>			
Miscellaneous equipment, exclusive of trust equipment (projects in progress):			
Locomotives, type-U switchers.....	\$461, 488. 00	\$256, 764. 00	\$204, 724. 00
Miscellaneous equipment (projects to be substituted):			
Ansonia (engine terminal), 1 locomotive crane.....	9, 000. 00	.....	9, 000. 00
Sheff (engine terminal), 1 locomotive crane.....	9, 000. 00	.....	9, 000. 00
Total.....	479, 488. 00	256, 764. 00	222, 724. 00
Additions and betterments to existing equipment (in progress):			
Metal roofs to 1,000 freight cars.....	48, 600. 00	.....	48, 600. 00
Metal car lines to 1,000 freight cars.....	21, 600. 00	.....	21, 600. 00
Slotted couplers to freight cars.....	72, 600. 00	.....	72, 600. 00
Steel underframes to freight cars.....	161, 076. 00	.....	161, 076. 00
Total.....	303, 876. 00	.....	303, 876. 00
Additions and betterments to existing equipment (projects not started):			
Tender end sills to 17 locomotives.....	2, 400. 00	.....	2, 400. 00
Total additions and betterments to existing equipment..	306, 276. 00	.....	306, 276. 00
Grand total for Cleveland, Cincinnati, Chicago & St. Louis Ry.....	7, 395, 097. 00	2, 306, 097. 00	5, 089, 000. 00
<i>Cincinnati Northern.</i>			
Additions and betterments to way and structures (projects in progress):			
Van Wert, 10 section motor cars.....	3, 700. 00	.....	3, 700. 00
Van Wert, driving-wheel lathe.....	30, 300. 00	.....	30, 300. 00
Van Wert, drill press.....	1, 000. 00	.....	1, 000. 00
Van Wert, wheel press.....	17, 900. 00	.....	17, 900. 00
Van Wert, engine lathe 26 inches by 10 feet.....	5, 200. 00	.....	5, 200. 00
Rosburg, passing track.....	7, 400. 00	.....	7, 400. 00
Greenville, interlocking Dayton & Union crossing.....	18, 000. 00	.....	18, 000. 00
Total.....	83, 500. 00	.....	83, 500. 00
Additions and betterments to way and structures (projects to be substituted):			
Hudson, electric pump at water station.....	3, 500. 00	.....	3, 500. 00
Germantown, water tank.....	5, 000. 00	.....	5, 000. 00
Total.....	8, 500. 00	.....	8, 500. 00
Total additions and betterments to way and structures...	92, 000. 00	.....	92, 000. 00
Miscellaneous equipment, exclusive of trust equipment (projects completed):			
Wrecking crane.....	37, 465. 00	37, 465. 00	.....
Additions and betterments to existing equipment (projects completed):			
Slotted couplers to freight cars.....	4, 492. 00	4, 492. 00	.....
Metal roofs to freight cars.....	1, 069. 00	685. 00	384. 00
Steel ends to freight cars.....	3, 040. 00	2, 739. 00	301. 00
Metal truck bolsters to freight cars.....	2, 335. 00	1, 613. 00	722. 00
Rebuilding caboose cars.....	1, 464. 00	1, 464. 00	.....
Total.....	12, 400. 00	10, 993. 00	1, 407. 00
Additions and betterments to existing equipment (projects in progress):			
Steel underframes to freight cars.....	9, 667. 00	6, 147. 00	3, 520. 00
Economy draft arms to freight cars.....	24, 242. 00	14, 649. 00	9, 593. 00
Total.....	33, 909. 00	20, 796. 00	13, 113. 00
Additions and betterments to existing equipment (projects to be substituted):			
Miscellaneous betterments.....	6, 480. 00	.....	6, 480. 00
Total additions and betterments to existing equipment....	52, 789. 00	31, 789. 00	21, 000. 00
Grand total for Cincinnati Northern R. R.....	182, 254. 00	69, 254. 00	113, 000. 00

REMI

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
<i>Recapitulation.</i>			
New York Central.....	\$19,052,714.00	\$11,066,714.00	\$7,986,000.00
Michigan Central.....	5,050,068.98	2,552,068.98	2,498,000.00
Cincinnati Northern.....	182,254.00	69,254.00	113,000.00
Cleveland, Cincinnati, Chicago & St. Louis.....	7,395,097.00	2,306,097.00	5,089,000.00
Toledo & Ohio Central.....	234,200.00	20,200.00	214,000.00
Zanesville & Western.....	60,000.00	.....	60,000.00
Kanawha & Michigan.....	795,890.00	539,890.00	256,000.00
Lake Erie & Western.....	636,917.00	27,917.00	609,000.00
Grand total.....	33,347,140.98	16,582,140.98	16,825,000.00

Our certificate of December 22, 1920, will be amended accordingly.

*Amendment to Certificate No. 53 for a Loan under Section 210 of the Transportation Act, 1920, as Amended.*

The Interstate Commerce Commission hereby amends its certificate No. 53 of December 22, 1920, to the Secretary of the Treasury, approving the making of a loan of \$26,775,000 by the United States to the New York Central Railroad Company, hereinafter referred to as the applicant, by changing subparagraph (h) of paragraph 5 to read as follows:

(h) The applicant has agreed in an instrument in writing dated December 13, 1920, supplemented December 30, 1921, and filed with the Interstate Commerce Commission, to the following conditions: (1) The expenditures made from the loan for additions and betterments shall be confined to such expenditures as may be chargeable to accounts for investment in road and equipment provided in the commission's accounting classification for steam roads in effect at the time the expenditures may be made; and (2) the applicant shall furnish the commission on or about July 1, 1921, January 1, 1922, and July 1, 1922, the detailed certificate under oath of its chief engineer, or the chief engineer of the subsidiary company concerned, showing the character and costs of the additions and betterments made with or in connection with the loan for said purposes. The entire loan for additions and betterments shall have been expended or definitely obligated for the purposes for which loaned, or the entire loan for additions and betterments shall be repaid to the United States, on or before July 1, 1922.

Done in Washington, D. C., this 4th day of January, 1922.

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## FINANCE DOCKET No. 1015.

## IN THE MATTER OF THE APPLICATION OF THE RUTLAND RAILROAD COMPANY FOR A LOAN FROM THE UNITED STATES TO AID IN PROVIDING ADDITIONS AND BETTERMENTS.

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*Submitted November 17, 1921. Decided December 28, 1921.*

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Upon supplemental application and consideration thereof, authority granted to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Previous report, 65 I. C. C., 351.

*Albert H. Harris* for applicant.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

On November 4, 1920, we issued certificate No. 40 to the Secretary of the Treasury, 65 I. C. C., 351, approving the making of a loan of \$61,000 by the United States to the Rutland Railroad Company, hereinafter referred to as the applicant, in accordance with section 210 of the transportation act, 1920, as amended, for the purpose of aiding the applicant to provide itself with additions and betterments to way and structures.

On September 1, 1921, the applicant made application to us for authority to apply specified amounts to specified purposes of the loan in lieu of corresponding amounts desired to be curtailed, abandoned, or deferred. The applicant represented to us that the amounts of the loan assigned to the several projects set forth in the application were based on estimated costs, and that in the progress of the work being financed from the proceeds of the loan, it developed that the estimates of cost were too low, from which it resulted that the proceeds of the loan applicable to these projects were insufficient to the extent of \$17,064.12. The applicant further represented to us that it desired to abandon one of the projects included in the loan purposes, amounting to \$36,420.00, and absorb the above-mentioned deficiency, and apply the balance \$19,355.88 to specified purposes not originally included in the purposes of the loan.

After investigation and informal hearings we find that the requested authority should be granted, and that the following purposes

70 I. C. C.

which will be the basis of future reports of progress by the applicant are necessary to enable the applicant properly to meet the transportation needs of the public:

Purposes.	Estimated cost.	Financed by applicant.	Loan from United States.
Additions and betterments to way and structures:			
Winthrop, N. Y., extension of passing siding.....	\$11,808.93	.....	\$11,808.93
New Haven Junction, Vt.—			
Rebuilding overhead highway bridge No. 246.....	3,415.34	.....	3,415.34
Rebuilding overhead highway bridge No. 248.....	7,520.83	.....	7,520.83
Middlebury, Vt.—			
Rebuilding overhead highway bridge No. 240.....	8,529.05	.....	8,529.05
Rebuilding overhead highway bridge No. 241.....	10,369.97	.....	10,369.97
Rutland, Vt., new ice house.....	13,141.00	.....	13,141.00
New Haven Junction, Vt., to Vergennes, Vt., installation of drain tile on various cuts.....	6,500.00	\$285.12	6,214.88
Total additions and betterments to way and structures.	61,285.12	285.12	61,000.00



## FINANCE DOCKET No. 1430.

## IN THE MATTER OF THE APPLICATION OF THE ILLINOIS TERMINAL RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted December 8, 1921. Decided December 28, 1921.*

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Certificate issued authorizing the Illinois Terminal Railroad Company to construct an extension of its line of railroad in Madison and St. Clair Counties, Ill.

*E. J. Verlie* for applicant.

*Whitnel & Whitnel* for protestants.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Illinois Terminal Railroad Company, a common carrier by railroad subject to the interstate commerce act, hereinafter called the Terminal Company, on May 2, 1921, filed an application for a certificate of public convenience and necessity, pursuant to paragraph (18) of section 1 of the interstate commerce act, authorizing it to construct an extension to its line of railroad in Madison and St. Clair Counties, Ill. The St. Louis, Troy & Eastern Railroad Company, hereinafter called the Troy Company, and the St. Louis & Illinois Belt Railroad Company, hereinafter called the Belt Company, objected to the granting of the application. A hearing was held upon notice to interested parties.

The Terminal Company owns and operates a belt line extending from Alton, Ill., to LeClair, Ill., a distance of 15 miles. It also operates from LeClair to Formosa Junction, Ill., a distance of approximately 6 miles, over the tracks of the Belt Company, which are leased to the Troy Company. The Terminal Company now proposes to extend its line from LeClair to and through Formosa Junction to O'Fallon, Ill., a distance of approximately 14 miles.

The Terminal Company's railroad serves the industrial district in the vicinity of Alton, Ill., and Wood River, Ill., through to Edwardsville, Ill., and connects with various trunk-line railroads at these points. There are many large industries located on its line. It is stated that in the year 1920 the industries in this district consumed

1,225,000 tons of coal, and that a conservative estimate of their outbound shipments would be 1,500,000 to 2,000,000 tons per annum. There is also a large inbound traffic consisting of raw and other materials. The proposed extension would traverse extensive coal fields between Formosa Junction and O'Fallon and would tap other large coal tracts in and around O'Fallon. The president of one of the coal companies, whose properties are located near O'Fallon, testified that his company, which has a capacity of over 2,000,000 tons per annum, would probably ship 1,000,000 tons of coal a year over the proposed extension, and it appears that other mining companies in the same district would route a large proportion of their output over this line. Shipments of coal from the O'Fallon district to the Alton and Wood River industrial district must now pass through East St. Louis, Ill., involving practically a three-line haul. This movement involves delay because of the congested condition of the terminals in East St. Louis. It is stated that in times of heavy traffic shipments through East St. Louis are delayed in that city from three to seven days, and at the present time it requires about four days to move a car of coal through the East St. Louis terminals. The construction of the proposed extension would furnish a direct one-line haul from O'Fallon to Alton, which would shorten the distance between these points by approximately 15 miles, and would avoid the difficulties occasioned by the movement through the terminals in East St. Louis. It would also afford the coal operators at O'Fallon a direct route to the Chicago and Northwest markets. The proposed extension would connect with the Illinois Central Railroad, the Pennsylvania Railroad, the Baltimore & Ohio Railroad, and the Louisville & Nashville Railroad. Shipments over these roads could be made through connections with this extension without passing through the East St. Louis terminals. The traffic manager of one of the industries, located on the Terminal's road, testified that his company would move from 150 to 250 cars of products per month over this extension to points on the Baltimore & Ohio Railroad alone. It appears reasonably clear that the proposed extension would supply a definite transportation need.

There is some conflict in the testimony relative to the cost of the extension. The Terminal Company's estimate of the cost, stated separately for each primary account, according to our classification, is \$641,964. The protestants claim the cost will aggregate \$900,000. This estimate appears high in view of the fact that the extension would run through a moderately rolling country. The Terminal Company proposes to finance the proposed construction from surplus funds now on hand and available for the purpose. It appears

that there is a reasonable prospect that the proposed extension would earn a satisfactory return.

The Terminal Company has an authorized capital stock of \$500,000, all of which is outstanding. Its authorized bonded indebtedness is \$500,000, of which \$410,000 has been issued and is outstanding. For the year 1920 its operating revenues amounted to \$1,146,375.19 and its net income was \$450,930.65. At the close of the year 1920 the road and equipment account showed an investment of \$2,114,127.40, the profit-and-loss credit balance amounted to \$428,421.59, and the corporate surplus was \$1,583,177.39.

This extension would parallel the Belt Company's railroad between LeClair and Formosa Junction but would not parallel any existing line between Formosa Junction and O'Fallon. The Belt Company and its lessee, the Troy Company, object to the proposed construction between LeClair and Formosa Junction for the reasons that it would constitute a duplication of facilities, would require a large investment not necessary to meet the public needs, would deplete the earnings of the existing road, and is not required to serve the demands or necessities of the public. No objection was made to the proposed construction between Formosa Junction and O'Fallon.

In 1910 the Terminal Company began operating over the Belt Company's railroad from LeClair to Formosa Junction under a written contract. This contract was terminated by the Belt Company on June 1, 1917. Upon receipt of the notice of termination the Terminal Company filed notice of cancellation of rates via this route. Objections thereto were filed with the Public Utilities Commission of Illinois, and the Troy Company officials stated to that commission that they would make a contract with the Terminal Company of a permanent nature so that there would be no further interruption of traffic. Since the termination of the contract the Terminal Company has operated over the Belt Company's road under verbal permission, and upon such terms and conditions as the Belt Company, from time to time, imposed. From June 1, 1917, to date, excepting the Federal control period, the interested companies have conducted negotiations relative to entering into a new trackage contract, but have been unable to reach an agreement. The Terminal Company claims that it would be more economical for it to construct the additional trackage than to attempt to operate over the tracks of the Belt Company under the terms and conditions which the latter seeks to impose. We can not assume that continued operation over the Belt Company's railroad under any terms that would be fair to both parties is possible.

The territory between LeClair and Formosa Junction is farming land. There are no cities or villages on the Belt Company's line. It appears that the Terminal Company has never originated any traffic between these points. There are a number of coal mines along the Belt's railroad which are owned by the Donk Brothers Coal & Coke Company. This coal company is controlled by the same interests that control the Belt Company and the Troy Company, and the president of the coal company is also president of these two railroad companies. It appears that the Belt Company's railroad was built to serve the Donk Brothers Coal & Coke Company and handles all its traffic in this territory. It therefore seems improbable that the proposed extension would divert any local traffic from the existing line, but it would bring coal from the O'Fallon district into competition with that mined by the Donk Brothers Coal & Coke Company. The applicant does not contend that there is sufficient local traffic between LeClair and Formosa Junction to justify the duplication of the existing facilities. Its purpose is to serve the O'Fallon district and to reach the trunk-line connections at that point.

The Belt Company further contends that it is chartered to build a line from LeClair to Formosa, thence to O'Fallon and southwest to the Mississippi River, and that it has purchased a portion of the right of way between Formosa and O'Fallon, but claims that the general condition touching railroad construction has, in the judgment of its managers, argued against construction at the present time and under existing conditions. The Belt's present line was built in 1909. The evidence shows that it purchased some isolated tracts of land south of Formosa Junction several years ago, but there is no evidence to show when, if ever, it would extend its lines along its chartered route.

Upon the facts presented we find that the present and future public convenience and necessity require the construction and operation by the applicant of the extension to the line of railroad described in the application. A certificate and order to that effect will accordingly be issued.

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*Certificate of Public Convenience and Necessity.*

A hearing in this proceeding and investigation of the matters and things involved therein having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof.

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction and operation by the Illinois Terminal Railroad Company of an extension of its line of railroad in Madison and St. Clair Counties, Ill., described in the application and report aforesaid.

*It is ordered,* That said Illinois Terminal Railroad Company be, and it is hereby, authorized to construct said extension.

*It is further ordered,* That said Illinois Terminal Railroad Company, when filing schedules establishing rates and fares to and from points on said extension, shall in such schedules refer to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1513.

## IN THE MATTER OF THE APPLICATION OF THE SUSQUEHANNA RIVER &amp; WESTERN RAILROAD COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted December 16, 1921. Decided December 28, 1921.*

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Proposed acquisition and operation by the Susquehanna River & Western Railroad Company of a line of railroad in Perry County, Pa., held not to be within the scope of paragraph (18) of section 1 of the interstate commerce act. Proceeding dismissed.

*McKenney & Flannery* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Susquehanna River & Western Railroad Company, a carrier by railroad subject to the interstate commerce act, on July 7, 1921, filed its application pursuant to paragraph (18) of section 1 of the interstate commerce act for a certificate of public convenience and necessity authorizing it to acquire and operate a line of narrow-gauge railroad belonging to certain individuals and extending from applicant's main line at Bloomfield Junction, to Blain, Perry County, Pa., a distance of 17 miles. No application under section 5 of the act has been filed.

It appears that the line in question was constructed in 1892 and was operated by the Newport & Sherman Valley Railroad up to March 31, 1920, when it was sold in foreclosure proceedings to representatives of the bondholders. From and after April 20, 1920, the property was operated by the applicant and is still so operated under a so-called license from the purchasers, one of whom is the president of the applicant.

The applicant desires to take over and reconstruct the line as a standard-gauge railroad and make it a part of its own system. The line was in operation by the applicant prior to May 28, 1920, and such operation has at no time been abandoned. Under these circumstances it is our opinion that the proposed acquisition and continued operation do not fall within the prohibition of paragraph (18) of section 1 of the act. An order will be entered dismissing the proceeding.

**ORDER.**

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered,* That this proceeding be, and it is hereby, dismissed.

70 I. C. C.



## FINANCE DOCKET No. 1820.

## IN THE MATTER OF THE APPLICATION OF THE ST. LOUIS, SAN FRANCISCO &amp; TEXAS RAILWAY COMPANY FOR AUTHORITY TO ISSUE NOTES.

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*Submitted December 15, 1921. Decided December 28, 1921.*

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Authority granted to issue two promissory notes, one under date of January 1, 1921, in the face amount of \$186,941.71, and the other under date of September 1, 1921, in the face amount of \$98,045.76, each to be payable on demand to the St. Louis-San Francisco Railway Company or order, and to be delivered to that company in respect of expenditures for certain additions and betterments to applicant's property.

*W. F. Evans* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The St. Louis, San Francisco & Texas Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act, to issue two promissory notes in the aggregate amount of \$284,987.47 to the St. Louis-San Francisco Railway Company, hereinafter termed the railway company, in payment, to the extent of the face amount thereof, for additions and betterments made by that company to the applicant's property. No objection has been made to the granting of the application.

The applicant is a subsidiary of the railway company, its outstanding capital stock, with the exception of qualifying shares of directors, being held by that company.

It is stated in the application that during the period from July 1, 1919, to December 31, 1920, inclusive, the railway company expended \$186,941.71, and during the period from January 1 to August 31, 1921, it expended \$98,045.76, for additions and betterments made to the applicant's property. In payment of its indebtedness on account of these expenditures the applicant proposes to execute and deliver to the railway company two promissory notes, one under date of January 1, 1921, for \$186,941.71, and the other under date of September 1, 1921, for \$98,045.76, each to be made payable on demand to the railway company or order, and to bear interest at the rate of 6 per cent per annum from the date thereof.

Under its prior-lien mortgage dated July 1, 1916, made to the Central Trust Company of New York (now the Central Union Trust Company) and Daniel K. Catlin, the railway company is required, in order to obtain the authentication and delivery of prior-lien bonds in respect of expenditures made by or for account of any of its subsidiary or controlled companies, to deliver to the corporate trustee under the mortgage, obligations of the subsidiary company in an amount not less than the principal amount of the bonds to be authenticated.

By our order dated October 21, 1921, in *Bonds of St. Louis-San Francisco Ry.*, 70 I. C. C., 537, the railway company was authorized to issue its prior-lien bonds in respect of the expenditures made for account of the applicant between July 1, 1919, and December 31, 1920, inclusive, and it has applied for authority to issue its prior-lien bonds in respect of the expenditures made between January 1, 1921, and August 31, 1921, inclusive. The applicant states that the railway company will use the notes, pursuant to the requirement stated, for the purpose of procuring authentication and delivery of prior-lien mortgage bonds, and will thus be enabled to further extend and improve its facilities and to carry on efficiently its service as a common carrier.

From the application it appears that the applicant's president on November 2, 1921, delivered to the railway company a note dated January 1, 1921, for \$186,941.71, which was intended to cover the indebtedness for expenditures made during the period July 1, 1919, to December 31, 1920. Section 20a of the interstate commerce act provides that it shall be unlawful for any carrier to issue any securities, even though permitted by the authority creating the carrier corporation, unless and until, upon application of the carrier and investigation by us, we by order authorize such issue. The note which was delivered on November 2, 1921, without complying with this provision of the law, is, by the plain terms of the statute, void, and no means are provided for validating it. It is not an obligation of the carrier, and may not be carried on its books as such. Our order will provide that the note dated January 1, 1921, for \$186,941.71, issued and delivered without authorization on November 2, 1921, shall be surrendered, canceled, and replaced by the promissory note for like amount issued under our authority herein.

The notes now proposed to be issued and the applicant's other outstanding notes of a maturity of two years or less will together aggregate more than 5 per cent of the par value of its outstanding securities.

We find that the proposed issue of promissory notes by the applicant (a) is for a lawful object within its corporate purposes, and com-

patible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the St. Louis, San Francisco & Texas Railway Company be, and it is hereby, authorized to issue two promissory notes, one under date of January 1, 1921, in the face amount of \$186,941.71, and one under date of September 1, 1921, in the face amount of \$98,045.76, each payable on demand to the St. Louis-San Francisco Railway Company or order, with interest at the rate of 6 per cent per annum from the date thereof; said notes to be in the form submitted with the application and to be delivered to said St. Louis-San Francisco Railway Company for the purpose of paying the applicant's indebtedness to that company, as set forth therein.

*It is further ordered*, That the St. Louis, San Francisco & Texas Railway Company shall, coincidently with the issue of the notes herein authorized, cause to be surrendered, and shall cancel and replace, the note dated January 1, 1921, for \$186,941.71 issued and delivered by it on November 2, 1921, without authorization from this commission.

*It is further ordered*, That, except as herein authorized to be issued, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to (1) the surrender and cancellation of the note dated January 1, 1921, for \$186,941.71 issued and delivered on November 2, 1921, to the St. Louis-San Francisco Railway Company, (2) the issue, and (3) the payment or other satisfaction of the notes herein authorized to be issued; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1821.

IN THE MATTER OF THE APPLICATION OF THE WEST  
TULSA BELT RAILWAY COMPANY FOR AUTHORITY  
TO ISSUE NOTES.

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*Submitted November 25, 1921. Decided December 28, 1921.*

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Authority granted to issue two promissory notes, one under date of January 1, 1921, in the face amount of \$1,094.23, and the other under date of September 1, 1921, in the face amount of \$457.62, each to be payable on demand to the St. Louis-San Francisco Railway Company or order, and to be delivered to that company in respect of expenditures for certain additions and betterments made to applicant's property.

*W. F. Evans* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The West Tulsa Belt Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue two promissory notes in the aggregate amount of \$1,551.85 to the St. Louis-San Francisco Railway Company, hereinafter termed the railway company, in payment, to the extent of the face amount thereof, for additions and betterments made by that company to the applicant's property. No objection has been made to the granting of the application.

The applicant is a subsidiary of the railway company, its outstanding capital stock, with the exception of qualifying shares of directors, being held by that company.

It is stated in the application that during the period from July 1, 1919, to December 31, 1920, inclusive, the railway company expended \$1,094.23, and during the period from January 1 to August 31, 1921, inclusive, it expended \$457.62, for additions and betterments to the applicant's property. In payment of its indebtedness on account of these expenditures the applicant proposes to execute and deliver to the railway company two promissory notes, one under date of January 1, 1921, for \$1,094.23, and the other under date of September 1, 1921, for \$457.62, each to be made payable on demand to the railway company or order, with interest at the rate of 6 per cent per annum from the date thereof.

Under its prior-lien mortgage dated July 1, 1916, made to the Central Trust Company of New York (now the Central Union Trust Company) and Daniel K. Catlin, the railway company is required, in order to obtain the authentication and delivery of prior-lien bonds in respect of expenditures made by or for account of any of its subsidiary or controlled companies, to deliver to the corporate trustee under the mortgage, obligations of the subsidiary company in an amount not less than the principal amount of bonds to be authenticated.

By our order dated October 21, 1921, in *Bonds of St. Louis-San Francisco Ry.*, 70 I. C. C., 537, the railway company was authorized to issue its prior-lien bonds in respect of the expenditures made for account of the applicant between July 1, 1919, and December 31, 1920, inclusive, and it has applied for authority to issue its prior-lien bonds in respect of the expenditures made between January 1 and August 31, 1921, inclusive. The applicant states that the railway company will use the notes, pursuant to the requirement stated, for the purpose of procuring authentication and delivery of prior-lien mortgage bonds, and will thus be enabled to further extend and improve its facilities and to carry on efficiently its service as a common carrier.

The notes now proposed to be issued and the applicant's other outstanding notes of a maturity of two years or less will together aggregate more than 5 per cent of the par value of its outstanding securities.

We find that the proposed issue of promissory notes by the applicant, (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the West Tulsa Belt Railway Company be, and it is hereby, authorized to issue two promissory notes, one under date of January 1, 1921, in the face amount of \$1,094.23, and one under date of September 1, 1921, in the face amount of \$457.62, each payable on demand to the St. Louis-San Francisco Railway Company

or order, with interest at the rate of 6 per cent per annum from the date thereof; said notes to be in the form submitted with the application and to be delivered to said St. Louis-San Francisco Railway Company for the purpose of paying the applicant's indebtedness to that company, as set forth therein.

*It is further ordered*, That, except as herein authorized to be issued, said notes shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, with 10 days thereafter, respectively, report to this commission all pertinent facts relating to the issue and payment or other satisfaction of said notes; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said notes, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1880.

## IN THE MATTER OF THE APPLICATION OF THE FORT WORTH &amp; RIO GRANDE RAILWAY COMPANY FOR AUTHORITY TO ISSUE A NOTE.

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*Submitted November 30, 1921. Decided December 28, 1921.*

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Authority granted to issue a 6 per cent promissory note under date of September 1, 1921, in the face amount of \$92,882.95, payable on demand to the St. Louis-San Francisco Railway Company or order in respect of expenditures for certain additions and betterments made by that company to applicant's property.

*W. F. Evans* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

BY DIVISION 4:

The Fort Worth & Rio Grande Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue a promissory note for \$92,882.95 to the St. Louis-San Francisco Railway Company, hereinafter termed the railway company, in payment, to the extent of the face amount thereof, for additions and betterments made by that company to the applicant's property. No objection has been made to the granting of the application.

The applicant is a subsidiary of the railway company, its outstanding capital stock, with the exception of qualifying shares of directors, being held by that company.

It is stated in the application that during the period from January 1, 1921, to August 31, 1921, inclusive, the railway company expended \$92,882.95 for additions and betterments made to the applicant's property. In payment of its indebtedness on account of these expenditures the applicant proposes to execute and deliver to the railway company its promissory note dated September 1, 1921, for \$92,885.95, payable on demand to the railway company or order, with interest at the rate of 6 per cent per annum from the date thereof.

Under its prior-lien mortgage dated July 1, 1916, made to the Central Trust Company of New York (now the Central Union Trust Company) and Daniel K. Catlin, the railway company is re-



quired, in order to obtain the authentication and delivery of prior-lien bonds in respect of expenditures made by or for account of any of its subsidiary or controlled companies, to deliver to the corporate trustee under the mortgage, obligations of the subsidiary company in an amount not less than the principal amount of bonds to be authenticated.

The railway company has applied for authority to issue its prior-lien bonds in respect of the expenditures made between January 1 and August 31, 1921, inclusive, for additions and betterments made to applicant's property. Applicant states that the railway company will use the note, pursuant to the requirement stated, for the purpose of procuring authentication and delivery of prior-lien mortgage bonds, and will thus be enabled to further extend and improve its facilities and to carry on efficiently its service as a common carrier.

The note now proposed to be issued and the applicant's other outstanding notes of a maturity of two years or less will together aggregate more than 5 per cent of the par value of its outstanding securities.

We find that the proposed issue of a promissory note by the applicant as aforesaid (*a*) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (*b*) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Fort Worth & Rio Grande Railway Company be, and it is hereby, authorized to issue a promissory note dated September 1, 1921, in the face amount of \$92,882.95, payable on demand to the St. Louis-San Francisco Railway Company or order, with interest at the rate of 6 per cent per annum from the date thereof; said note to be in the form submitted with the application and to be delivered to said St. Louis-San Francisco Railway Company for the purpose of paying applicant's indebtedness to that company, as set forth therein.

*It is further ordered*, That, except as herein authorized to be issued, said note shall not be sold, pledged, repledged, or otherwise dis-

posed of by the applicant, unless and until so ordered by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the issue and payment or other satisfaction of said note; such reports to be signed and verified by an executive officer of the applicant having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said note, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 2043.

IN THE MATTER OF THE APPLICATION OF THE  
CAROLINA, CLINCHFIELD & OHIO RAILWAY FOR  
AUTHORITY TO EXTEND THE MATURITY OF NOTES  
AND TO PLEDGE SECURITIES.

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*Submitted December 17, 1921. Decided December 28, 1921.*

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Authority granted (1) to extend the maturity date of \$6,000,000 of Elkhorn first-mortgage gold notes from January 1, 1922, to January 1, 1923; and (2) to pledge the aforesaid notes, together with \$1,000,000 of first-mortgage 30-year gold bonds, as security for a loan under section 210 of the transportation act, 1920, as amended.

*Hornblower, Miller & Garrison* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, AND EASTMAN.

## BY DIVISION 4:

The Carolina, Clinchfield & Ohio Railway, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to extend the maturity date of \$6,000,000 of its Elkhorn first-mortgage gold notes from January 1, 1922, to January 1, 1923, and to pledge them, together with \$1,000,000 of its first-mortgage 5 per cent 30-year gold bonds, with the Secretary of the Treasury as collateral security for a loan of \$6,000,000 from the United States under section 210 of the transportation act, 1920, as amended. No objection has been offered to the granting of the application.

By our certificate No. 121, in *Loan to Carolina, Clinchfield & Ohio Ry.*, 70 I. C. C., 783, we approved a loan from the United States to the applicant under said section in the amount of \$6,000,000, to enable the applicant to pay off and discharge a loan of \$1,000,000 from the United States, and \$5,000,000 of its Elkhorn first-mortgage gold notes, all of which mature on January 1, 1922. In such certificate the applicant was required to pledge \$1,000,000 of its first-mortgage 5 per cent 30-year gold bonds and \$6,000,000 of its Elkhorn first-mortgage gold notes, with the Secretary of the Treasury, as security therefor. In order to make the Elkhorn gold notes available as collateral, the applicant is to secure the extension of their maturity date from January 1, 1922, to January 1, 1923. At the date

of this application, \$500,000 of the applicant's first-mortgage 5 per cent 30-year gold bonds were pledged with the Secretary of the Treasury as part security for the loan of \$1,000,000 which matured January 1, 1922, and \$500,000 of such bonds are now held free and unencumbered in the applicant's treasury. Of the Elkhorn first-mortgage gold notes, \$1,000,000 are also held by the Secretary of the Treasury as security in part for the loan maturing January 1, 1922, and \$5,000,000 are in the hands of the public. These notes were originally issued under the Elkhorn first mortgage dated February 1, 1917, made by the applicant to the New York Trust Company, which authorized a total issue of \$6,000,000 of gold notes, bearing interest at the rate of 5 per cent per annum, and maturing January 1, 1920. By a supplemental indenture dated December 15, 1919, between the applicant, the New York Trust Company, and the holders of these notes, in consideration of the increase in the interest rate of the notes from 5 to 6 per cent, the date of the maturity of the notes was extended to January 1, 1922. The applicant now proposes by supplemental indenture between it, the New York Trust Company, and the note holders, dated December 15, 1921, to further extend the maturity date to January 1, 1923, with interest at the rate of 6 per cent per annum, and, when so extended, to pledge them with the Secretary of the Treasury.

We find that the proposed extension of the maturity date of Elkhorn first-mortgage gold notes, and the pledge thereof, and of first-mortgage gold bonds, by the applicant as aforesaid (a) are for lawful objects within its corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the Carolina, Clinchfield & Ohio Railway be, and it is hereby, authorized to further extend the maturity date of not exceeding \$6,000,000, aggregate face amount of its Elkhorn first-mortgage gold notes, now outstanding, from January 1, 1922, to January 1, 1923 (said notes having been issued under and pursuant to, and being secured by, the Elkhorn first mortgage dated February

1, 1917, made by the applicant to the New York Trust Company, and heretofore extended from January 1, 1920, to January 1, 1922, by a supplemental indenture dated December 15, 1919, between the applicant, said trust company, and the holders of said notes, whereby, also, the interest rate on said notes was increased from 5 per cent to 6 per cent per annum); said extension to be accomplished by the execution of a supplemental indenture to be dated December 15, 1921, between the applicant, said trust company, and holders of said notes, and by stamping each note with an indorsement to that effect; said notes, when so indorsed and stamped, to mature January 1, 1923, to bear interest at the rate of 6 per cent per annum, and to be pledged as hereinafter authorized.

*It is further ordered*, That the Carolina, Clinchfield & Ohio Railway be, and it is hereby, authorized to pledge with the Secretary of the Treasury as security for a loan from the United States under section 210 of the transportation act, 1920, as amended, the \$6,000,000, aggregate face amount, of its Elkhorn first-mortgage notes (the maturity of which is hereinbefore authorized to be extended), and \$1,000,000, principal amount, of its first-mortgage 30-year gold bonds issued under and pursuant to, and secured by, the first mortgage dated June 1, 1908, made by the applicant to the Farmers' Loan & Trust Company (\$500,000, principal amount, of which is now pledged with the Secretary of the Treasury as collateral security for a loan from the United States which matures January 1, 1922, and \$500,000, principal amount, of which is now held unencumbered in the treasury of the applicant), and which bear interest at the rate of 5 per cent per annum and will mature June 1, 1938.

*It is further ordered*, That, except as herein authorized, said first-mortgage gold bonds and said Elkhorn first-mortgage gold notes shall not be sold pledged, replugged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating to the extension of the maturity date of said notes, to the pledge of said bonds and said notes as herein authorized, to the release of said bonds and notes from pledge, and to the payment or other satisfaction of said notes; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds or notes, or interest thereon, on the part of the United States.

## FINANCE DOCKET No. 1142.

IN THE MATTER OF THE APPLICATION OF THE  
CENTRAL OF GEORGIA RAILWAY COMPANY FOR  
A CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY.

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*Approved December 31, 1921.*

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DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.

*Amendment to Certificate issued March 12, 1921.<sup>1</sup>*

*It appearing,* That on March 12, 1921, this commission issued its report and certificate of public convenience and necessity in the above-entitled matter, authorizing the applicant to construct a branch line of railroad in Jefferson County, Ala., and to retain the excess earnings therefrom for a period of 10 years from the date on which the branch line should be placed in operation, but not extending beyond December 31, 1931, upon the condition that the branch line should be completed and placed in operation on or before December 31, 1921.

*It further appearing,* From the petition filed by the applicant that it will be unable to complete this branch line within the time limited by said certificate for the reasons stated in its petition, and that it requests that the time limit for completion be extended to April 30, 1922.

Now, therefore, upon further consideration of the record and of the petition of the applicant filed herein,

*It is ordered,* That the time fixed in the certificate of this commission of March 12, 1921, for the completion of said branch line of railroad be, and the same is hereby, extended to and including April 30, 1922.

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<sup>1</sup> 67 I. C. C., 273.

## FINANCE DOCKET No. 1651.

IN THE MATTER OF THE APPLICATION OF THE  
ALASKA ANTHRACITE RAILROAD COMPANY FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NE-  
CESSITY.

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*Submitted December 24, 1921. Decided December 31, 1921.*

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1. Certificate issued authorizing the construction of an extension of a line of railroad in Alaska.
2. Permission to retain excess earnings granted.

*Henry R. Harriman* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Alaska Anthracite Railroad Company, a common carrier by railroad subject to the interstate commerce act, on November 1, 1921, filed an application for a certificate of public convenience and necessity pursuant to paragraph (18) of section 1 of the interstate commerce act, authorizing it to construct an extension to its line of railroad in Alaska. Permission is requested under paragraph (18) of section 15a to retain the excess earnings of the line to be constructed.

The applicant was organized in 1916 and is now completing its line of railroad from Controller Bay north to the Bering River coal fields, a distance of 26.1 miles. The present application is for authority to construct an extension of the main line from its northern terminus on Canyon Creek, a distance of 1.75 miles northward, following the east side of Canyon Creek to a point thereon designated by the Alaska Pacific Coal Company as its loading point for coal to be mined in United States Alaska coal-leasing units Nos. 51 and 52.

The purpose of the proposed construction is to furnish transportation facilities for the output of a coal mine to be opened by the Alaska Pacific Coal Company. Applicant estimates that the territory to be served by this extension contains more than 60,000,000 tons of coal, and states that a short additional extension would tap the United States naval coal reserve. The country is described as mountainous, rocky, and timbered. There are no towns or villages within 20 miles and no other railroads or highways in the region. The population to be served would consist of employees of



the railroad and coal mines. Applicant anticipates that large industrial plants will be established in Alaska when the coal from the territory tributary to this extension is made available, but states that it is not affiliated with any such enterprise.

A detailed estimate of the cost of the proposed extension places the total at \$198,255. This amount includes \$74,900 for equipment and \$16,000 for additional bunkers to be built at the terminal. Applicant proposes to finance these expenditures by the sale of 2,500 shares of its common stock. An application for authority to issue securities is pending before us.

It is stated that in October, 1921, the Alaska Pacific Coal Company made a contract with applicant by which it agreed to ship a minimum of 300 tons of coal a day for 300 working days a year over applicant's line to Controller Bay, shipments to commence within six months after the completion of this extension and the deep-water terminals on Controller Bay. Applicant expects that this minimum daily production will be available as soon as it is prepared to handle the traffic. It appears that the proposed extension should earn a satisfactory return and materially contribute to the support of applicant's existing line.

Upon the facts presented we find that the present and future public convenience and necessity require the construction by the applicant of the extension of the line of railroad described in the application, and we further find that applicant should be permitted to retain for a period not to exceed 10 years from the date the extension is completed and put in operation, but not later than December 31, 1932, all or any part of its earnings derived from such new construction in excess of the amount provided in section 15a of the interstate commerce act for such disposition as it may lawfully make, conditioned, however, upon the completion of the work of construction on or before December 31, 1922. A certificate and order to that effect will be entered accordingly.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require and will require the construction and operation by the Alaska Anthracite Railroad Company of an  
70 I. C. C.

extension of its line of railroad in Alaska, described in the application and report aforesaid.

*It is ordered*, That the Alaska Anthracite Railroad Company be, and it is hereby, authorized to construct said extension.

*It is further ordered*, That the Alaska Anthracite Railroad Company be, and it is hereby, permitted to retain for a period not to exceed 10 years from the date the said extension is completed and placed in operation, but not later than December 31, 1932, all or any part of its earnings in excess of the amount provided in section 15a of the interstate commerce act for such disposition as it may lawfully make of the same: *Provided, however*, That this permission is granted upon the express condition that the construction of said extension shall be completed on or before December 31, 1922: *And provided further*, That the applicant's accounts shall be kept in such manner that the earnings derived from such extension can be segregated from those of applicant's other line or lines.

*And it is further ordered*, That said Alaska Anthracite Railroad Company, when filing schedules establishing rates and fares to and from points on said extension, shall in such schedules refer to this certificate by title, date, and docket number.

70 I. C. C.

## FINANCE DOCKET No. 1805.

IN THE MATTER OF THE APPLICATION OF THE  
GAINESVILLE & NORTHWESTERN RAILROAD COM-  
PANY FOR AUTHORITY TO ISSUE FIRST-MORTGAGE  
BONDS.

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*Submitted December 5, 1921. Decided December 31, 1921.*

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Authority granted to issue \$75,000 of first-mortgage bonds payable five years after date with interest at the rate of 6 per cent per annum, and to pledge them with the Secretary of the Treasury as security for a loan from the United States under section 210 of the transportation act, 1920, as amended.

*W. D. Ellis, jr.*, for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Gainesville & Northwestern Railroad Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to issue \$75,000 of its first-mortgage bonds. No objection to the granting of the application has been made.

The applicant represents that it is indebted in the sum of \$108,071.67, and for the purpose of liquidating part of this indebtedness it has applied to this commission for a loan of \$75,000 from the United States under section 210 of the transportation act, 1920, as amended. By our certificate No. 122, in *Loan to Gainesville & Northwestern R. R.*, 70 I. C. C., 615, we have approved the making of such a loan, the security therefor to consist of the \$75,000 of bonds proposed to be issued.

The proposed bonds will be issued under and secured by a first mortgage to be made by the applicant to the Investors Savings Company, which will create a first lien to secure the payment of the principal and interest of the bonds, upon all the properties, franchises, and assets of the applicant now owned, enjoyed, or possessed by it, and any replacements, substitutions, or additions thereto. The applicant states that the proposed bonds will be guaranteed by the indorsement of the Piedmont Corporation. The bonds will be dated as of the date of issue, and will be payable to bearer five years after date with interest at the rate of 6 per cent per annum. The proceeds of the loan for which they will be pledged will be used by the applicant in discharging a like amount of its present indebtedness.

The applicant's capital stock amounts to \$750,000, divided into shares of the par value of \$100. Of this stock \$250,000 is preferred, bearing cumulative dividends at the rate of 6 per cent per annum. These dividends began to accumulate two full years after the date of the running of the first regular passenger train over the applicant's railroad, which it is understood was about six years ago. No dividends at all have been paid, and dividends on the preferred stock have accumulated for the period mentioned. Until the bonds proposed to be issued shall have been retired or paid, the owners of the preferred stock have agreed to waive the collection of the accumulated dividends and of dividends that will accumulate. The applicant holds in its treasury \$149,100 of the \$500,000 of its common capital stock. It has no bonds outstanding.

We find that the proposed issue of bonds by the applicant as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

### ORDER.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered*, That the Gainesville & Northwestern Railroad Company be, and it is hereby, authorized to issue \$75,000, principal amount, of its first-mortgage bonds, under and pursuant to, and to be secured by, a mortgage to be made by the applicant to the Investors Savings Company; said bonds to be payable to bearer five years after date with interest at the rate of 6 per cent per annum, and to be substantially in the form submitted with the application; said bonds to be pledged with the Secretary of the Treasury as security for a loan of \$75,000 to the applicant from the United States under section 210 of the transportation act, 1920, as amended.

*It is further ordered*, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicant, unless and until so authorized by this commission.

*It is further ordered*, That, within 10 days after the execution and delivery of said proposed first mortgage, the applicant shall file

with this commission a certified copy thereof in the form in which it was executed.

*It is further ordered*, That the applicant shall, within 10 days thereafter, respectively, report to this commission all pertinent facts relating (1) to the pledge of said bonds as herein authorized; and (2) to their release from pledge; such reports to be signed and verified by an executive officer having knowledge of the facts.

*And it is further ordered*, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

70 I. C. C.

## FINANCE DOCKET No. 1970.

## IN THE MATTER OF THE APPLICATION OF THE CHICAGO, MILWAUKEE &amp; GARY RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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*Submitted December 27, 1921. Decided December 31, 1921.*

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1. Certificate issued authorizing the construction of a line of railroad from Aurora to Joliet, Ill.
2. Permission to retain excess earnings granted.

*George H. Williams* for applicant.

## REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, DANIELS, EASTMAN, AND POTTER.  
BY DIVISION 4:

The Chicago, Milwaukee & Gary Railway Company, a carrier by railroad subject to the interstate commerce act, on December 9, 1921, filed its application for a certificate under paragraph (18) of section 1 of that act that the present and future public convenience and necessity require or will require the construction by the applicant of a line of railway from a point 3.4 miles north of its terminals at Aurora, Ill., in a southeasterly direction through the counties of Kane, Kendall, and Will, to a point 3.33 miles east of its terminals at Joliet, Ill., a distance of 29.2 miles. Permission is sought under paragraph (18) of section 15a of the act to retain the excess earnings therefrom.

The applicant now owns two disconnected segments of main-line track, extending from Rockford to Aurora and from Joliet to Momence, all in the State of Illinois. Through movement from Rockford to Momence is obtained by means of a trackage agreement with the Elgin, Joliet & Eastern Railway, hereinafter called the Elgin, which is an outer belt line having very dense traffic in and near the Chicago switching district, and especially in the vicinity of Joliet.

The applicant represents that the movement of its traffic over the tracks of the Elgin necessitates handling its trains through the main assembling and classification yard of the Elgin at Joliet, which is not laid out to handle through trains; that this yard is in normal times too congested and its tracks too short and unfitted as to alignment and gradient for through operations; and that applicant's trains are thus seriously delayed in passing through Joliet. It is

also pointed out that the Elgin has but a single track west of Joliet, which in normal times is often congested by the Elgin's own traffic, causing further delays in the movement of applicant's business. Traffic restrictions imposed upon the applicant under the trackage agreement are described as so burdensome as to jeopardize its ability to continue operations. The proposed connecting line is said to offer the only practical solution of its problem.

Very little local traffic is expected to originate or terminate on the proposed line, but its future value as a means of increasing and making more profitable the through business of the applicant is urged as sufficient warrant for the undertaking. The applicant is assured of a large volume of new business, consisting chiefly of coal from Indiana mines delivered to it by the Chicago, Milwaukee & St. Paul Railway, hereinafter called the St. Paul, at Delmar and hauled by applicant to Kirkland for redelivery to the originating carrier's lines for distribution throughout the Northwest. It is expected that a large part of the system coal used by the St. Paul, as well as commercial coal consigned to northwest territory, will pass over this route instead of through the Chicago switching district as at present. Such volume of traffic, the applicant contends, can not be handled by it over the congested tracks of the Elgin. It further shows that it will also obtain an interchange of traffic eastbound, originating on the St. Paul and destined to points on eastern and southern lines reached by applicant, none of which can now be handled by it. The mean length of haul of all additional business is estimated at 120 miles and a total increase in annual gross revenues of \$2,370,000 is anticipated. The proposed line will be of standard construction, with 85-pound rail, have maximum gradients in each direction of 0.5 per cent, and cost \$2,700,000. No additional equipment will be required for the present.

The evidence with respect to congestion of applicant's traffic over the Elgin's tracks is of a very general nature, but justifies the belief that the future of the applicant may be best assured by the proposed duplication of existing facilities. The volume of new business in prospect, according to the applicant's showing, is sufficient to warrant the proposed expenditure, if it be conceded, as must be done on the record before us, that such additional traffic is not available to the applicant under existing conditions.

Upon the facts presented we find that the present and future public convenience and necessity require the extension of applicant's line of railroad as proposed in its application. Since the development of the new business is likely to require some little time and the cost of construction will be considerable, it is proper that permission be



granted to the applicant to retain for a period of 10 years after the line shall have been placed in operation, but not later than January 1, 1934, earnings derived therefrom in excess of the amount provided in section 15a of the interstate commerce act, for such disposition as it may lawfully make, conditioned, however, upon completion of the work of construction on or before January 1, 1924. A certificate and order to that effect will be issued.

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*Certificate of Public Convenience and Necessity.*

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is hereby certified,* That the present and future public convenience and necessity require the construction and operation by the Chicago, Milwaukee & Gary Railway Company of a line of railroad from a point 3.4 miles north of its terminals at Aurora, Ill., in a southeasterly direction through the counties of Kane, Kendall, and Will, to a point 3.33 miles east of its terminals at Joliet, Ill., connecting two lines of railroad now owned and operated by it between Rockford and Aurora and between Joliet and Momence, all in the State of Illinois.

*It is ordered,* That the Chicago, Milwaukee & Gary Railway Company be, and it is hereby, authorized to construct and operate said extension.

*It is further ordered,* That the Chicago, Milwaukee & Gary Railway Company be, and it is hereby, permitted to retain for a period not exceeding 10 years from the date when said extension shall be placed in operation, but not later than January 1, 1934, earnings derived from such extension in excess of the amount provided in section 15a of the interstate commerce act, for such disposition as it may lawfully make of the same: *Provided, however,* That said Chicago, Milwaukee & Gary Railway Company shall so keep its books and accounts that the earnings derived from said extension can be segregated from those of the remainder of said company's line: *And provided further,* That this permission is granted upon the condition that the work of constructing said extension shall be completed not later than January 1, 1924.

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## INDEX DIGEST.

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[The numbers in parentheses following citations indicate where subjects are considered.]

### ABANDONMENT.

#### In General:

The operation of the physical property of one carrier by another does not constitute an abandonment of operation of the carrier taken over within the meaning of paragraph (18), section 1 of the act, and no certificate of public convenience and necessity is required. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20 (24).

Objection to Commission's jurisdiction to permit abandonment on grounds that petitioning railroad is an intrastate railroad not subject to paragraphs (18) to (22) of section 1 of the act; that if such paragraphs are construed as applying to intrastate railroads they are unconstitutional; that only reason assigned, i. e., that the railroad has not been and can not be operated except at a loss does not relate to present or future public convenience and necessity, which is the only ground upon which the Commission can permit the abandonment, and that an inquiry into the reason assigned is beyond the Commission's jurisdiction, *Held*: Commission has jurisdiction to pass upon application as shipments originate on applicant's line destined to points outside the State. Public Convenience Certificate to D. & N. M. Ry., 184 (185).

Contention that territory served is developing agriculturally and that a substantial increase may be anticipated in the business available to the railroad which it is proposed to abandon; and that there will be a serious loss in real estate values in that territory if the line is abandoned. *Held*: The hope of increased business in the future can hardly prevail against the results of actual experience in the operation of the line. Abandonment of Hawkinsville & Florida Southern Ry., 566 (568).

#### Branch Lines:

Atchison, Topeka & Santa Fe Ry. Co., certificate of public convenience and necessity authorizing the abandonment of a branch line in Kay County, Okla., issued. Branch was constructed to afford freight service to the Blackwell oil field; production from the wells has diminished almost to the vanishing point; at no time was there sufficient business to warrant regular freight or passenger service; service provided was conducted at a material net loss; and there is no present need for operation and none is likely to develop in the future. Public Convenience Certificate to A., T. & S. F. Ry., 377.

Atlanta & St. Andrews Bay Ry. Co., certificate of public convenience and necessity authorizing the abandonment of a branch line of railroad between Panama City and St. Andrews, Fla., held in abeyance pending determination of result of discontinuance of operation for an experimental period. Operation of the branch line is attended by serious financial loss, but it is contended that the needs of the community of St. Andrews are such that the public interest will suffer if the abandonment takes place. Public Convenience Application of A. & S. A. B. Ry., 313.

**ABANDONMENT—Continued.****Branch Lines—Continued.****Boston & Maine R. R.—**

Certificate of public convenience authorizing the abandonment of a branch line extending from Cherry Mountain to Jefferson, both in Coos County, N. H., issued. Line was built for the accommodation of summer-resort travel to and from a hotel and numerous cottages in the town of Jefferson. The growth of automobile travel has caused a steady diminution in the passenger traffic handled, and there is no prospect that any new traffic will be available in the future. Public Convenience Certificate to B. & M. R. R., 224.

Certificate of public convenience and necessity authorizing the abandonment of a branch line from Bethlehem Junction to the station of Profile House, both in Grafton County, N. H., issued. Line was built for the accommodation of passengers traveling to the summer resort known as Profile House, but due to the competition of automobiles the traffic has been reduced to practically nothing and there is no prospect of the traffic increasing in the near future. Public Convenience Certificate to B. & M. R. R., 226.

Green Bay & Western R. R. Co., proposed abandonment of branch line between Onalaska and La Crosse, Wis., found not justified. It has been uniformly held that the cessation of a particular service is not to be justified merely because it results in a loss, considered by itself. Consideration must be given to the business of the carrier as a whole. Public Convenience Application of G. B. & W. R. R., 251.

Live Oak, Perry & Gulf R. R. Co., certificate of public convenience and necessity authorizing the abandonment of a branch line in Taylor County, Fla., issued. Branch was built to afford a rail outlet for the products of a large sawmill at Loughridge. Such mill was destroyed by fire, and no industry of any kind is now conducted at Loughridge. Abandonment of Part of L. O., P. & G. R. R., 607.

Louisiana & Pacific Ry. Co., certificate of public convenience and necessity authorizing the abandonment of a branch located in Beauregard Parish, La., issued. Branch was built specifically to transport logs from Vandercook to Longville. The mill of the lumber company at Longville was destroyed by fire and will not be rebuilt. Territory traversed by the branch is practically uninhabited; no industries of any kind are located in it and the products of agriculture are negligible; and as logging operations have ceased it could no longer be operated except at a total loss. Abandonment of Part of L. & P. Ry., 629.

Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., certificate of public convenience and necessity authorizing the abandonment of its Deerwood branch in Crow Wing County, Minn., issued. Branch was constructed primarily for the purpose of developing bodies of iron ore in the South Cuyuna Range, but subsequent exploration proved the ore to be of no commercial value and none of it was ever shipped. Train service has been discontinued because of no traffic; the roadway, culverts, and bridges are unsafe for operation; the region traversed is rocky and practically untillable; and the line was operated at a substantial loss from the time it was opened to traffic. Public Convenience Certificate to M., St. P. & S. S. M. Ry., 698.

**ABANDONMENT—Continued.****Branch Lines—Continued.****Mississippi Central R. R. Co.—**

Certificate of public convenience and necessity authorizing the abandonment of operation of part of a branch line to be leased from the Gulf, Mobile & Northern R. R. Co. in the city of Hattiesburg, Miss., issued. The station facilities of the New Orleans & Northeastern, now used by the Gulf, will thus be no longer needed, and there will be no necessity for operating regular trains over that part of the line which lies between the Gulf's connection with the New Orleans & Northeastern and with the applicant's rails. Public Convenience Certificate to M. C. R. R., 425.

Certificate of public convenience and necessity authorizing the abandonment of a branch line in Forrest County, Miss., issued. There is now no demand for continued service except for removing the salvage from Camp Shelby which is being dismantled. Id. (425).

**Pere Marquette Ry. Co.—**

Certificate of public convenience and necessity authorizing the abandonment of a branch line in Benzie County, Mich., issued. Line was built to provide transportation for forest products, the supply of which has been exhausted; territory is served by other lines which provide adequate and reasonably convenient transportation facilities; there are no towns or villages on the branch proposed to be abandoned; and there is no prospect that any new traffic will be available in the near future. Public Convenience Certificate to P. M. Ry., 324.

Certificate of public convenience and necessity authorizing the abandonment of a branch line in Clare County, Mich., issued. Line was primarily built as a logging road. The territory served is thinly populated and is decreasing in population each year; the forest products have practically been exhausted, and there is no prospect of any increase in freight or passenger traffic. Public Convenience Certificate to P. M. Ry., 535.

**Main Lines:**

Alabama & Mississippi R. R. Co.'s certificate of public convenience and necessity authorizing the abandonment of its lines in Alabama and Mississippi, issued. Territory traversed consists largely of cut-over timber lands; line is in poor physical condition, and large repairs would be required to bring the track to a state of normal maintenance; there has been a small agricultural development, but this has not afforded sufficient traffic to appreciably affect the operating revenues; and it appears reasonably clear that operation can not be conducted except at a loss. Abandonment of Lines of A. & M. R. R. Co., 531.

Bennettsville & Cheraw R. R. Co., certificate of public convenience and necessity authorizing the abandonment of operation of a portion of its line between Brownsville and Sellers, in the counties of Marlboro, Dillon, and Marion, S. C., issued. Territory traversed is sparsely settled, only slightly cultivated, apparently incapable of industrial development, and there appears to be no demand for continued service. Public Convenience Certificate to B. & C. R. R., 417.

**ABANDONMENT—Continued.****Main Lines—Continued.**

**Carthage & Pinehurst R. R. Co.,** certificate of public convenience and necessity authorizing the abandonment of its line in Moore County, N. C., issued. The Carthage has no equipment and no funds with which to purchase equipment; it can borrow no money for any purpose because of the bad financial showing during its operation under lease to the Norfolk Southern which has proved not only unprofitable but unduly burdensome upon revenues from the Norfolk's own line, and no deprivation of shipping facilities would be suffered by the residents of the territory traversed as the towns served by it have other ample railroad facilities. Certificate of N. S. and C. & P. R. R., 774.

**Central New England Ry. Co.,** certificate of public convenience and necessity authorizing the abandonment of a portion of its line extending from the station of Feeding Hills in the town of Agawam, to its connection with the Boston & Albany R. R., both in Hampden County, Mass., issued. Traffic over this line is very light and is not likely to increase in the near future; operation has resulted in a loss; and from Agawam an electric line runs directly into Springfield, Mass., hauling passengers and light freight. Abandonment of Part of C. N. E. Ry., 441.

**Delta Southern Ry. Co.,** certificate of public convenience and necessity authorizing the abandonment of its lines of railroad in Mississippi, issued. No money is now being expended for the maintenance of the property and it is deteriorating daily; the salvage value of the line is constantly decreasing; the applicant already is largely indebted to the state of Mississippi for taxes; and the towns, villages, and communities which it serves have not enough business now or in prospect to supply the traffic needed to pay operating expenses. Public Convenience Certificate to D. S. Ry., 546.

**Duluth & Northern Minnesota Ry. Co.,** certificate of public convenience and necessity issued authorizing the abandonment of its line of railroad in St. Louis, Lake, and Cook Counties, Minn. Applicant's line has not been and can not be operated except at a loss. Public Convenience Certificate to D. & N. M. Ry., 184.

**Hawkinsville & Florida Southern Ry. Co.,** certificate of public convenience and necessity authorizing the abandonment of its line of railroad in Georgia, issued. The road is in poor physical condition and large renewals must be made to bring the track to a state of normal maintenance; traffic is mostly local and revenues have been adversely affected by automobile and truck competition; operating revenues would not pay the fuel bill and pay rolls; the receiver is unable to borrow more money; and it appears that the road has not, and can not be, operated except at a loss. Abandonment of H. & F. S. Ry., 568.

**ABANDONMENT—Continued.****Main Lines—Continued.**

**Kentwood, Greensburg & Southwestern R. R. Co.,** certificate of public convenience and necessity authorizing the abandonment of its line of railroad in Louisiana, issued. Line was built for the sole purpose of hauling forest products; territory served is "cut-over land" with a small amount of farm lands and no communities other than a small one at Greensburg; and but few people will be affected by the proposed abandonment. Public Convenience Certificates to K., G. & S. W. R. R., 201.

**Kinder & Northwestern R. R. Co.,** certificate of public convenience and necessity authorizing the abandonment of its line in Louisiana issued. Line was built for the sole purpose of handling forest products; all the timber has been cut; the cut-over lands have never been developed for other uses; and there are no communities or industries located on the line to be abandoned. Public-Convenience Certificate to K. & N. W. R. R., 189.

**Liberty White R. R. Co.,** certificate of public convenience and necessity authorizing the abandonment of its line extending from Liberty to South McComb in the counties of Pike and Amite, Miss., issued. Applicant has never earned operating expenses; volume of traffic has diminished each succeeding year; and way and structures are so seriously in need of repairs that the Mississippi Railroad Commission has declared the line unsafe for operation and ordered all passenger trains discontinued. Public-Convenience Certificate to L. W. R. R., 411.

**Louisiana & Northwest R. R. Co.,** certificate of public convenience and necessity authorizing the abandonment of a portion of its line extending from Chestnut to Natchitoches, La., issued. Such portion of the road is in very poor physical condition; operation of trains over it would be unsafe; receiver has no funds with which to make necessary repairs; country is sparsely settled and no towns of size or importance are served; revenues derived from the traffic have never been sufficient to pay costs of operation; and there does not appear to be any prospect that sufficient traffic could be developed to make this part of the line self-sustaining. Abandonment of Part of L. & N. W. R. R., 392.

**Norfolk Southern R. R. Co.,** certificate of public convenience and necessity authorizing the abandonment of the Carthage & Pinehurst R. R. Co., in Moore County, N. C., issued. The Carthage has no equipment and no funds with which to purchase equipment; it can borrow no money for any purpose because of the bad financial showing during its operation under lease to the Norfolk Southern, which has proved not only unprofitable but unduly burdensome upon the revenues from the Norfolk's own line; and no deprivation of shipping facilities would be suffered by the residents of the territory traversed, as the towns served by it have other ample railroad facilities. Certificate of N. S. and C. & P. R. R., 774.

**ABANDONMENT—Continued.****Main Lines—Continued.**

Seaboard Air Line Ry. Co., certificate of public convenience and necessity authorizing the abandonment of its Fruitville extension in the county of Manatee, Fla., issued. Extension was constructed for the purpose of reaching timber tracts and agricultural lands beyond Fruitville; the passenger and freight traffic handled by the line is negligible; tracts of land near Fruitville formerly devoted to truck farming have been abandoned; no increase in traffic is in prospect; the line does not pay operating expenses; and the track material is needed elsewhere on applicant's road. Public Convenience Certificate to S. A. L. Ry., 497.

Sugar Pine Ry. Co., certificate of public convenience and necessity authorizing the abandonment of its line in the county of Tuolumne, Calif., issued. Line has no passenger traffic and very little commercial freight tonnage; it serves no towns, villages, or settlements along its line, but merely operates for a lumber company through cut-over timberlands; under existing conditions it can pay no return upon its investment; and as a common carrier it is evidently not required, as it performs substantially no public service. Abandonment of S. P. Ry., 478.

Wisconsin-Northwestern Ry., certificate of convenience and necessity authorizing the abandonment of its line extending from Girard Junction to Taylor Rapids in Marinette County, Wis., issued. The results of operation have shown substantial losses; but little use has been made of this line in the past; and there is little prospect of any material increase in freight or passenger traffic in the near future. Public Convenience Certificate to Wis.-N. W. Ry., 51.

**ACCOUNTING.**

Accounting procedure to be observed by all carriers accepting the provisions of section 209 of the transportation act, 1920, for the purpose of the guaranty under that section. Appendix A. Final Settlement under Section 209, 711 (717).

**ACQUISITION OF CONTROL. See also CONSOLIDATION.****In General:**

The operation of the physical property of one carrier by another does not constitute an abandonment of operation of the carrier taken over within the meaning of paragraph (18), section 1 of the act, and no certificate of public convenience and necessity is required. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20 (24).

Improper to authorize the purchase of one carrier by another at any sum in excess of the actual cost of building the line, or to permit the purchasing carrier to write into its investment accounts any sum in excess of such cost. Acquisition of Control of B. & C. M. Ry. by N. P. Ry., 328 (329).



**ACQUISITION OF CONTROL—Continued.****In General—Continued.**

When, as in paragraph (6) of section 5 of the act, it is provided that "it shall be lawful" to consolidate under certain conditions, this is but another way of saying that consolidations in disregard of those conditions shall be unlawful. And in like manner when it is provided, as in paragraph (2) of that section, that the Commission may authorize the acquisition of one carrier of control of another in any manner falling short of consolidation whenever such acquisition "will be in the public interest," this is equivalent to saying that authority for the acquisition shall not exist under other conditions. Securities Application of P. & W. V. Ry., 682 (688).

**Arizona & New Mexico Ry. Co.:**

Authority granted the El Paso & S. W. Co. to issue short-term promissory notes to be delivered directly or to be sold at par, the proceeds thereof to be used in part payment of the purchase price of all the outstanding stock and bonds of the Arizona & New Mexico. Acquisition of Control, Etc., by E. P. & S. W. Co., 795.

Acquisition of control by the El Paso & S. W. R. R. Co., by lease, approved and authorized. Such proposed lease will effect economies in operation and accounting and will assure shippers in the territory served of the benefits of more dependable railroad service. Id. (795).

Acquisition of control by the El Paso & S. W. Co. by purchase of its capital stock, approved and authorized. Lines do not parallel or compete, and control of the Arizona by the Southwestern will result in a freer interchange of traffic and equipment. Furthermore, the line of the Arizona can be operated by the Southwestern without any increase in its management expenses. Id. (795).

Atchison, Topeka & Santa Fe Ry. Co., acquisition of control of the California Southern R. R., by lease, approved and authorized. Roads do not parallel or compete; the Santa Fe can operate this road more efficiently as a branch of its system than it can be operated independently; the expenses due to a duplication of official organizations will be eliminated; proposed lease will enable the Santa Fe to effect economies in operation and accounting and will simplify the work of preparing reports required by State and Federal laws; and the communities to be served will receive the benefits of the organization and greater facilities of the Santa Fe and the assurance of regular and dependable railroad service. Lease of C. S. R. R. by A., T. & S. F. Ry., 514.

Belfast & Moosehead Lake R. R. Co., acquisition of control by the Maine Central R. R. Co., by lease, approved and authorized. Discontinuance of operation of the Belfast's railroad by the Maine would necessitate the complete readjusting of the Belfast's organization, the purchasing by it of necessary rolling stock and equipment, the filing of new tariffs, and the establishing of through routes and rates. Acquisition of control of the B. & M. L. R. R. by the M. C. R. R., 405.

Billings & Central Montana Ry. Co., proposed acquisition by the Northern Pacific Ry. Co., approved and authorized. The interests of the community served by the Billings require that operation be continued, and it is obvious that such operation can be conducted more economically through the Northern Pacific's organization. Acquisition of control of B. & C. M. Ry. by N. P. Ry., 328.

**ACQUISITION OF CONTROL—Continued.**

**Boston & Albany R. R. Co.**, execution of a new contract whereby the Boston & Albany through its lessee, the New York Central R. R. Co., operates the line of the Providence, Webster & Springfield R. R. Co., approved and authorized. The Providence does not connect with any railroad except that of the Boston; does not parallel or compete with applicant's line, maintain any operating organization or own any equipment. Separate operation of this line is practically impossible; it must be operated by the Boston or its lessee if it is to remain in the transportation service, and the proposed contract continues in force a relation that has existed since 1884. Contract for Operation of P., W. & S. R. R., 470.

**California Southern R. R. Co.**, acquisition of control by the Atchison, Topeka & Santa Fe Ry. by lease approved and authorized. Roads do not parallel or compete; the Santa Fe can operate this road more efficiently as a branch of its system than it can be operated independently; the expenses due to a duplication of official organizations will be eliminated; proposed lease will enable the Santa Fe to effect economies in operation and accounting and will simplify the work of preparing reports required by State and Federal laws; and the communities to be served will receive the benefits of the organization and greater facilities of the Santa Fe and the assurance of regular and dependable railroad service. Lease of C. S. R. R. by A., T. & S. F. Ry., 514.

**Central R. R. Co. of N. J.**, certificate of public convenience and necessity to acquire in part, construct in part, and to operate a branch line in Cumberland County, N. J., issued. Proposed line will provide improved facilities for the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Public Convenience Certificate to C. R. R. Co. of N. J., 4.

**Chaffee R. R. Co.**, certificate of public convenience and necessity authorizing it to operate an existing line of railroad in Maryland and West Virginia for purpose of furnishing transportation facilities for the output of certain coal mines, issued. Certificate of Chaffee R. R., 690.

**Chesapeake & Ohio Northern Ry. Co.**, proposed acquisition by the Chesapeake & Ohio Ry. Co., approved and authorized. These lines do not parallel or compete and the proposed conveyance will enable the Chesapeake to operate the line of the Northern more efficiently and will effect economies in operation and accounting. Acquisition of C. & O. N. Ry. by C. & O. Ry., 550.

**Chesapeake & Ohio Ry. Co.:**

Proposed acquisition of the Chesapeake & Ohio Northern Ry. Co., approved and authorized. These lines do not parallel or compete and the proposed conveyance will enable the Chesapeake to operate the line of the Northern more efficiently and will effect economies in operation and accounting. Acquisition of C. & O. N. Ry. by C. & O. Ry., 550.

Acquisition of control of the Chesapeake & Ohio Ry. Co. of Indiana, by lease, approved and authorized. Lease of C. & O. Ry. of Indiana by C. & O. Ry. Co., 694.

**Chesapeake & Ohio Ry. Co. of Indiana**, acquisition of control by the Chesapeake & Ohio Ry. Co., by lease, approved and authorized. Lease of C. & O. Ry. of Indiana by C. & O. Ry., 694.

**ACQUISITION OF CONTROL—Continued.**

Chicago, Milwaukee & St. Paul Ry. Co., acquisition of control of the Chicago, Terre Haute & Southeastern Ry. Co. by lease and by purchase of capital stock, approved and authorized. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20.

Chicago, Terre Haute & Southeastern Ry. Co., acquisition of control by Chicago, Milwaukee & St. Paul Ry. Co. by lease and by purchase of capital stock, approved and authorized. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20.

Cumberland Valley & Martinsburg R. R., acquisition of control by the Pennsylvania R. R. Co. by lease, approved and authorized. The Pennsylvania owns all outstanding capital stock of the Cumberland and the payment of rental will be no more than a matter of bookkeeping; the roads do not parallel or compete; for many years they have been affiliated and have interchanged and moved traffic as one system; proposed arrangement will result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service; and the transaction is expected to effect economies in accounting and simplify the work of making reports required by State and Federal laws. Acquisition of Control of C. V. & M. R. R. by P. R. R., 301.

Denver & Rio Grande Western R. R. Co.:

Proposed acquisition and operation of the properties of the Denver & Rio Grande R. R. Co., held not within the scope of paragraph (18) of section 1 of the act because such property was in existence and was operated in interstate commerce prior to the effective date of that paragraph. Stock of D. & R. G. W. R. R., 102.

Proposed acquisition of all the outstanding stock by the Western Pacific R. R. Corp., held not to be within the scope of paragraph (2) of section 5 of the act as the Western Pacific is not a carrier engaged in the transportation of passengers or property subject to the act; and such proposed acquisition does not constitute a consolidation of two or more carriers into one corporation, management, and operation of properties theretofore in separate ownership, management, and operation, within the meaning of paragraph (6) of that section. Id. (102).

El Paso & Southwestern Co.:

Authority to issue short-term promissory notes to be delivered directly or to be sold at par, the proceeds thereof to be used in part payment of the purchase price of all the outstanding stock and bonds of the Arizona & New Mexico Ry. Co., granted. Acquisition of Control, etc., by E. P. & S. W. Co., 795.

Acquisition of control of the Arizona & New Mexico Ry. Co. by purchase of its capital stock, approved and authorized. Lines do not parallel or compete and control of the Arizona by the Southwestern will result in a freer interchange of traffic and equipment. Furthermore, the line of the Arizona can be operated by the Southwestern without any increase in its management expenses. Id. (795).

El Paso & Southwestern R. R. Co., acquisition of control of the Arizona & New Mexico Ry. Co., by lease, approved and authorized. Such proposed lease will effect economies in operation and accounting and will assure shippers in the territory served of the benefits of more dependable railroad service. Acquisition of Control, etc., by E. P. & S. W. Co., 795.

**ACQUISITION OF CONTROL—Continued.**

**Flint Belt R. R. Co.,** acquisition of control by the **Pere Marquette Ry. Co.,** by purchase of its capital stock, approved and authorized. The sale of the capital stock of the Flint is the only practicable method of securing funds with which to construct its line; the Marquette is the only available purchaser of this stock; and the Flint's railroad can not be built unless the Marquette is permitted to acquire its capital stock and thus furnish the money for its construction and initial operation. Acquisition of Control of F. B. R. R. by P. M. Ry., 413.

**Grand Trunk Western Ry. Co.,** proposed execution of a contract for purchase of the **Lansing Connecting R. R.** held not to be within the provisions of section 20a of the act. Applicant does not propose to issue any notes covering deferred payments, and is not to assume obligation or liability as lessor, lessee, guarantor, indorser, or otherwise in respect of securities of the Lansing. The only "security" for the issue of which authority is sought is the final agreement into which the applicant contemplates entering with the Lansing, over which the commission has no jurisdiction. Control of G. T. W. Ry. with L. C. R. R., 554.

**Gulf, Mobile & Northern R. R. Co.,** acquisition of control by the **Mississippi Central R. R. Co.,** by lease, of a branch line extending from **Beaumont** to **Hattiesburg, Miss.,** approved and authorized. Applicant will connect its tracks with the leased line and will operate into the city of **Hattiesburg** over its own rails, using its own freight station and the passenger station of the **Gulf & Ship Island R. R. Co.** Public Convenience Certificate to M. C. R. R., 425.

**Lansing Connecting R. R.,** proposed execution of a contract for purchase by the **Grand Trunk Western Ry. Co.,** held not to be within the provisions of section 20a of the act. Applicant does not propose to issue any notes covering deferred payments, and is not to assume obligation or liability as lessor, lessee, guarantor, indorser, or otherwise in respect of securities of the Lansing. The only "security" for the issue of which authority is sought is the final agreement into which the applicant contemplates entering with the Lansing, over which the Commission has no jurisdiction. Control of G. T. W. Ry. with L. C. R. R., 554.

**Maine Central R. R. Co.,** acquisition of control of the **Belfast & Moosehead Lake R. R. Co.,** by lease, approved and authorized. Discontinuance of operation of the Belfast's railroad by the Maine would necessitate the complete readjusting of the Belfast's organization, the purchasing by it of necessary rolling stock and equipment to conduct transportation, the filing of new tariffs, and the establishing of through routes and rates. Acquisition of Control of the B. & M. L. R. R. by the M. C. R. R., 405.

**Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.,** proposed acquisition of the property used for railroad purposes by the **Wisconsin & Northern R. R. Co.,** approved and authorized. Acquisition of W. & N. R. R. by M., St. P. & S. S. M. Ry., 31.

**Mississippi Central R. R. Co.,** acquisition of control, by lease, of a branch line of the **Gulf, Mobile & Northern R. R. Co.,** extending from **Beaumont**, to **Hattiesburg, Miss.,** approved and authorized. The applicant will connect its tracks with the leased line and will operate into the city of **Hattiesburg** over its own rails, using its own freight station and the passenger station of the **Gulf & Ship Island R. R. Co.** Public Convenience Certificate to M. C. R. R., 425.

**ACQUISITION OF CONTROL—Continued.**

**New York Bay R. R. Co., acquisition of control by the Pennsylvania R. R. Co., by lease, approved and authorized.** The Pennsylvania owns all outstanding capital stock of the New York Bay and the payment of rental will be no more than a matter of bookkeeping; the roads do not parallel or compete; for many years they have been affiliated and have interchanged and moved traffic as one system; proposed arrangement will result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service; and the transaction is expected to effect economies in accounting and simplify the work of making reports required by State and Federal laws. Acquisition of Control of N. Y. B. R. R. by P. R. R., 306.

**New York Central R. R. Co., the Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., and the New York, Chicago & St. Louis R. R. Co., on rehearing, acquisition of control of the Cleveland Union Terminals Co., by purchase of capital stock, approved and authorized, and certificate of public convenience and necessity issued for the construction and operation of a terminal station and line of railroad constituting the approaches thereto in the city of Cleveland, Ohio.** Previous report, 70 I. C. C., 842, reversed. Cleveland Passenger Terminal Case, 659.

**New York, Philadelphia & Norfolk R. R. Co., acquisition of control by the Pennsylvania R. R. Co., by lease, approved and authorized.** The Pennsylvania owns all outstanding capital stock of the Norfolk and the payment of rental will be no more than a matter of bookkeeping; the roads do not parallel or compete; for many years they have been affiliated and have interchanged and moved traffic as one system; proposed arrangement will result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service; and the transaction is expected to effect economies in accounting and simplify the work of making reports required by State and Federal laws. Acquisition of Control of N. Y., P. & N. R. R. by P. R. R., 299.

**Northern Pacific Ry. Co., proposed acquisition of the Billings & Central Montana Ry. Co., approved and authorized.** The interests of the community served by the Billings require that operation be continued, and it is obvious that such operation can be conducted more economically through the Northern Pacific's organization. Acquisition of Control of B. & C. M. Ry. by N. P. Ry., 328.

**Panhandle & Santa Fe Ry. Co., proposed operation of a line of railroad in Oklahoma and Texas belonging to the North Texas & Santa Fe Ry. Co., which was in operation in interstate commerce prior to the effective date of paragraph (18) of section 1 of the act, found not within the Commission's jurisdiction and certificate of public convenience and necessity is unnecessary.** Public Convenience Application of P. & S. F. Ry., 75.

**ACQUISITION OF CONTROL—Continued.**

**Pennsylvania R. R. Co., acquisition of control of the following carriers, by lease, approved and authorized. The Pennsylvania owns all outstanding stock of these lines and the payment of rental will be no more than a matter of bookkeeping; these roads do not parallel or compete with the Pennsylvania; for many years the Pennsylvania and these carriers have been affiliated and have interchanged and moved traffic as one system; proposed arrangements will result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service; and the transactions are expected to effect economies in accounting and simplify the work of making reports required by State and Federal laws:**

**Cumberland Valley & Martinsburg R. R., 301.**

**New York Bay R. R. Co., 306.**

**New York, Philadelphia & Norfolk R. R., 299.**

**Perth Amboy & Woodbridge R. R., 303.**

**Pere Marquette Ry. Co., acquisition of control of the Flint Belt R. R., by purchase of its capital stock, approved and authorized. The sale of the capital stock of the Flint is the only practicable method of securing funds with which to construct its line; the Marquette is the only available purchaser of this stock; and the Flint's railroad can not be built unless the Marquette is permitted to acquire its capital stock and thus furnish the money for its construction and initial operation. Acquisition of Control of F. B. R. R. by P. M. Ry., 413.**

**Perth Amboy & Woodbridge R. R. Co., acquisition of control by the Pennsylvania R. R. Co., by lease, approved and authorized. The Pennsylvania owns all outstanding capital stock of the Perth Amboy and the payment of rental will be no more than a matter of bookkeeping; the roads do not parallel or compete; for many years they have been affiliated and have interchanged and moved traffic as one system; proposed arrangement will result in added efficiency and give the public the full benefit of the Pennsylvania's organization and service; and the transaction is expected to effect economies in accounting and simplify the work of making reports required by State and Federal laws. Acquisition of Control of P. A. & W. R. R. by P. R. R., 303.**

**Pittsburgh & West Virginia Ry. Co., application under section 20a of the act to issue capital stock and to assume obligation and liability in respect of certain securities in connection with the purchase of the property and franchises of the West Side Belt R. R. Co., denied. Such proposed stock issue and assumption of obligation and liability are for the purpose of purchase by the Pittsburgh and sale by the Belt of the property and franchises of the latter, which can not lawfully be accomplished without the Commission's authority under the provisions of section 5 of the act. Securities Application of P. & W. V. Ry., 682.**

**Pittsburg, Shawmut & Northern R. R. Co., acquisition of control of the Rochester, Hornellsville & Lackawanna R. R., by lease, approved and authorized. The Rochester affords the Pittsburg its entrance into Hornell, N. Y., and its principal connection with the Erie at that point. Discontinuance of operation by the Pittsburg would result in abandonment of operations over the Rochester and necessitate the cancellation of through rates and routes on traffic originating on the Pittsburg and the diversion of that traffic to other routes, and deprive shipping points on the Rochester of the benefits of competitive service. Lease of R., H. & L. R. R. by Receiver of P., S. & N. R. R., 396.**



**ACQUISITION OF CONTROL—Continued.**

**Providence, Webster & Springfield R. R. Co.,** execution of a new contract whereby the Boston & Albany R. R. Co., through its lessee, the New York Central R. R. Co., operates the line of the Providence, Webster & Springfield, approved and authorized. The Providence does not connect with any railroad except that of the Boston; does not parallel or compete with applicant's line; maintain any operating organization or own any equipment. Separate operation of this line is practically impossible; it must be operated by the Boston, or its lessee, if it is to remain in the transportation service; and the proposed contract continues in force a relation that has existed since 1884. Contract for Operation of P., W. & S. R. R., 470.

**Rochester, Hornellsville & Lackawanna R. R.,** acquisition of control by the Pittsburg, Shawmut & Northern R. R. Co., by lease, approved and authorized. The Rochester affords the Pittsburg its entrance into Hornell, N. Y., and its principal connection with the Erie at that point. Discontinuance of operation by the Pittsburg would result in abandonment of operations over the Rochester and necessitate the cancellation of through rates and routes on traffic originating on the Pittsburg and the diversion of that traffic to other routes, and deprive shipping points on the Rochester of the benefits of competitive service. Lease of R., H. & L. R. R. by Receiver of P., S. & N. R. R., 396.

**Susquehanna River & Western R. R. Co.,** proposed acquisition and operation of a narrow-gauge line of railroad extending from Bloomfield Junction to Blain, Perry County, Pa., held not to be within the scope of paragraph (18) of section 1 of the act, as the line was in operation by the applicant prior to the effective date of that paragraph, and such operation has at no time been abandoned. Public-Convenience Application of S. R. & W. R. R., 825.

**Texas & New Orleans R. R. Co.,** acquisition of control of the Texas State R. R., by lease, approved and authorized. Proposed lease would give the city of Palestine, Tex., the benefit of competitive trunk-line service and the wide distribution facilities of the Southern Pacific system. It would also give the intervening territory from Rusk to Palestine the benefits of one-line rates, an adequate car supply, and the advantages of regular and dependable railroad service. Lease of T. S. R. R. by T. & N. O. R. R., 485.

**Texas State R. R.,** acquisition of control, by lease, by the Texas & New Orleans R. R. Co., approved and authorized. Proposed lease would give the city of Palestine, Tex., the benefit of competitive trunk-line service and the wide distribution facilities of the Southern Pacific system. It would also give the intervening territory from Rusk to Palestine the benefits of one-line rates, an adequate car supply, and the advantages of regular and dependable railroad service. Lease of T. S. R. R. by T. & N. O. R. R., 485.



**ACQUISITION OF CONTROL--Continued.**

**West Side Belt R. R. Co., application of the Pittsburgh & West Virginia Ry. Co. under section 20a of the act to issue capital stock and to assume obligation and liability in respect of certain securities in connection with the purchase of the property and franchises of the West Side Belt, denied. Such proposed stock issue and assumption of obligation and liability are for the purpose of purchase by the Pittsburgh and sale by the Belt of the property and franchises of the latter, which can not lawfully be accomplished without the Commission's authority under the provisions of section 5 of the act. Securities Application of P. & W. V. Ry., 682.**

**Wisconsin & Northern R. R. Co., proposed acquisition by the Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., of the property used for railroad purposes, approved and authorized. Acquisition of W. & N. R. R. by M., St. P. & S. S. M. Ry., 31.**

**ADDITIONS AND BETTERMENTS.**

**Aransas Harbor Terminal Ry., upon supplemental application, original findings modified, and loan to aid in providing certain additions and betterments to way and structures included in a program of reconstruction of applicant's main line, destroyed by a West Indian hurricane, reduced. Certificate in former report, 65 I. C. C., 20, canceled. Loan to Aransas Harbor Terminal Ry., 203.**

**Chicago & Eastern Illinois R. R. Co., application for a loan to aid in providing, to existing equipment and way and structures, granted. Loan to C. & E. I. R. R., 558.**

**Chicago & North Western Ry. Co., authority to procure authentication and delivery to applicant's treasurer of general-mortgage gold bonds and of first and refunding mortgage gold bonds for the purpose of reimbursing its treasury in part for money expended out of income in the construction of additions, betterments, and improvements, said bonds to be held in the treasury until further order of the Commission, granted. Bonds of C. & N. W. Ry., 762.**

**Chicago Great Western R. R. Co., upon supplemental report, authority to divert a portion of the proceeds of the loan authorized in 65 I. C. C., 486, for additions and betterments to way and structures to additions and betterments to equipment, granted. Loan to C. G. W. R. R., 180.**

**Chicago, Indianapolis & Louisville Ry. Co., authority to issue and sell first and general mortgage gold bonds for purpose of reimbursing its treasury for expenditures for additions and betterments, granted. Bonds of C., I. & L. Ry., 803.**

**Cowlitz, Chehalis & Cascade Ry. Co., application for a loan to aid in providing, to way and structures, granted in part. Loan to C., C. & C. Ry., 580.**

**Cumberland & Manchester R. R. Co., authority to issue and sell general mortgage gold bonds, the proceeds thereof to be used for additions and betterments to road and equipment, granted. Securities, etc., of C. & M. R. R., 9.**

**Erie R. R. Co., upon supplemental report, former reports 65 I. C. C., 134 and 317, additional loan to aid in providing additions and betterments to existing equipment and way and structures, granted. Loan to E. R. R., 361.**

**ADDITIONS AND BETTERMENTS—Continued.**

**Fort Worth & Rio Grande Ry. Co.,** authority to issue a promissory note payable on demand to the St. Louis-San Francisco Ry. Co. or order in respect of expenditures for additions and betterments made by that company to applicant's property, granted. Note of Ft. W. & R. G. Ry., 833.

**Huntingdon & Broad Top Mountain R. R. & Coal Co.,** upon supplemental report, applicant having failed to furnish surety bond as security for loan approved in 65 I. C. C., 499, to aid in making additions and betterments to way and structures, and having secured financial aid elsewhere, certificate canceled. Loan to H. & B. T. M. R. R., 395.

**International & Great Northern Ry. Co.,** upon supplemental application, carrier representing that loan granted in respect of new rails is not now needed and having effected a saving in the cost of locomotives, amount of loan granted in 67 I. C. C., 129, reduced. Loan to Receiver of I. & G. N. Ry., 336.

**Jackson & Eastern Ry. Co.:**

Application for a loan to aid in the extension of its line denied, as the prospective earning power and security offered are not such as to afford reasonable assurance of ability to repay within the time fixed therefor and reasonable protection to the United States. Loan to J. & E. Ry., 236.

Authority to issue and sell first-mortgage bonds for the purpose of reimbursing its treasury for expenditures heretofore made for additions and betterments, and not yet capitalized, granted. Bonds of J. & E. Ry., 495.

**Maine Central R. R. Co.,** upon supplemental report, former report 65 I. C. C., 203, additional loan to aid in the acquisition of equipment and additions and betterments to way and structures, granted. Applicant is not now in such financial condition that it can procure a loan from bankers or from any other source, using its bonds as security, at a reasonable rate of interest. Loan to M. C. R. R., 366.

**Monongahela Ry. Co.,** application for loan to provide, to way and structures, dismissed. Loan tentatively approved by Commission, conditioned upon the applicant providing an equal amount to be expended for like purposes chargeable to capital account. Applicant unable to meet this condition, and requested Commission to dismiss the application. Application of Monongahela Ry. for Loan, 326.

**New Orleans, Texas & Mexico Ry. Co.,** upon supplemental report, authority to divert part of loan granted in 67 I. C. C., 73, for additions and betterments, to the making of certain additions and betterments not contemplated in the original applications, granted. Loan to N. O., T. & M. Ry., 620.

**New York, New Haven & Hartford R. R. Co.,** application for a loan to aid in providing, to existing equipment and way and structures, granted. Loan to N. Y., N. H. & H. R. R., 399.

**Rock Island, Arkansas & Louisiana R. R. Co.,** authority to issue first-mortgage gold bonds, and to deliver them to the C., R. I. & P. Ry. Co. in reimbursement of advances for additions and betterments to applicant's line, granted. Bonds of R. I., A. & L. R. R., 17.

**Rutland R. R. Co.,** upon supplemental application, authority granted to apply specified amounts to specified projects not originally included in the purposes of the loan approved in 65 I. C. C., 351, for additions and betterments to way and structures, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Loan to Rutland R. R., 818.

**ADDITIONS AND BETTERMENTS—Continued.**

**St. Louis, San Francisco & Texas Ry. Co., authority to issue two promissory notes, payable on demand to the St. Louis-San Francisco Ry. Co. or order, and to be delivered to that company in respect of expenditures for certain additions and betterments to applicant's property, granted. Notes of St. L., S. F. & T. Ry., 827.**

**St. Paul & Kansas City Short Line R. R. Co., authority to issue first-mortgage bonds and to deliver them to the Chicago, Rock Island & Pacific Ry. Co. in reimbursement of advances for additions and betterments, granted. Bonds of St. P. & K. C. S. L. R. R., 491.**

**Terminal R. R. Asso. of St. Louis, upon application in respect of loan for additions and betterments granted in 65 I. C. C., 195, authority granted to apply specified amounts to purposes not originally included in lieu of corresponding amounts to be abandoned or deferred; and time within which applicant should expend or definitely obligate the proceeds of the loan extended. Owing to sudden and radical changes in business conditions certain items were rendered unnecessary, and owing to increases in labor and material costs, strikes, etc., certain other items called for overexpenditures. Loan to Term. R. R. Asso. of St. Louis, 701.**

**Western Maryland Ry. Co., application for a loan to enable applicant to enlarge its grain elevator and elevator facilities at Port Covington terminal, near Baltimore, Md., granted. Loan to W. M. Ry., 887.**

**West Tulsa Belt Ry. Co., authority to issue promissory notes, payable to the St. Louis-San Francisco Ry. Co. or order, and to be delivered to that company in respect of expenditures for certain additions and betterments made to applicant's property, granted. Notes of W. T. B. Ry., 830.**

**AGREEMENTS. See CONTRACTS.**

**"AIR RIGHTS."**

**The Commission is not persuaded that the reservation of "air rights" of terminals in the hands of private interests is in accordance with sound public policy. Cleveland Passenger Terminal Case, 342 (351).**

**ALASKA.**

**Alaska Anthracite R. R. Co., certificate of public convenience and necessity issued for the construction of an extension of its line in Alaska, for the purpose of furnishing transportation facilities for the output of a coal mine to be opened; and permission granted to retain excess earnings therefrom for a period of not to exceed 10 years. Public Convenience Certificate to A. A. R. R., 840.**

**ASSUMPTION OF OBLIGATIONS. See OBLIGATIONS or LIABILITIES.**

**AUTOMOBILE COMPETITION. See COMPETITION.**

**BELT LINE.**

**Flint Belt R. R. Co.:**

**Certificate of public convenience and necessity authorizing the construction and operation of a line of railroad in Genessee County, Mich., issued. The road is designed particularly to serve the present and future manufacturing industries of Flint, Mich, and to afford a route over which may be detoured the through freight traffic of the Pere Marquette, the main line of which bisects the congested part of the city, involving not only inconvenience and delay to the Marquette but annoyance and danger to citizens. Public Convenience Certificate to F. B. R. R., 292.**

**BELT LINE—Continued.****Flint Belt R. R. Co.—Continued.**

Authority to sell capital stock, the proceeds thereof to be used in constructing and equipping a line of railroad pursuant to certificate of convenience and necessity issued in 70 I. C. C., 292, and as working capital, granted. Stock of F. B. R. R., 296.

**BONDS.****In General:**

Proposed sale of bonds at not less than 80 per cent of par, without cost of the issue and sale, found to result in excessive cost to applicant. Issue of such bonds authorized only upon condition that they be sold to net not less than 90 per cent of par. Bonds of Alabama, Florida & Gulf R. R., 238 (239).

The pledging of bonds as security for notes should be in a ratio based on the prevailing market price of the bonds rather than on their par value. Bonds of C. R. I. & P. Ry., 316 (317).

Bonds in which savings banks may invest under the laws of the state of New York sell more readily and at higher prices than other bonds. Securities of Louisville & Nashville R. R., 749 (751).

Alabama, Florida & Gulf R. R. Co., authority to issue first-mortgage sinking-fund gold bonds, the proceeds to be used in constructing extensions heretofore authorized in 70 I. C. C., 53, granted. Bonds of A., F. & G. R. R., 238.

Alabama Great Southern R. R. Co., authority to procure authentication and delivery of first consolidated mortgage gold bonds, for the purpose of reimbursing its treasury for expenditures incurred in double-tracking its line from Wauhatchie, Tenn., to Meridian, Miss., granted. Bonds of A. G. S. R. R., 800.

Alabama, Tennessee & Northern R. R. Corp., authority to issue prior-lien mortgage gold bonds and to pledge them as part security for a loan under section 210 of the transportation act, 1920, granted. Securities of A., T. & N. R. R., 675.

Americus & Atlantic R. R. Co., application for authority to issue stock and bonds to be used in the payment of the purchase price of a certain railroad dismissed. Applicant failed to furnish information requested by the Commission on a questionnaire or list of interrogatories designed to elicit from the applicant additional information with respect to the application. Securities of A. & A. R. R., 757.

Ann Arbor R. R. Co., authority to issue 6 per cent bonds under its improvement and extension mortgage as amended; part of said bonds to be pledged in substitution for a like amount of 5 per cent bonds issued under its original improvement and extension mortgage, and part in exchange for a like amount of 5 per cent bonds now held in its treasury, granted. Bonds of A. A. R. R., 36.

Arcade & Attica R. R. Corp., authority to issue a promissory note to secure funds with which to pay outstanding maturing notes the proceeds of which were used to pay indebtedness incurred for interchange of freight with other carriers; and to issue first-mortgage gold bonds, and pledge same as collateral security for said note, granted. Securities of A. & A. R. R. Corp., 82.

**BONDS—Continued.**

**Baltimore & Ohio & Chicago R. R. Co. (Ohio and Indiana), a subsidiary on the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.**

**Baltimore & Ohio R. R. Co.:**

**Authority to issue refunding and general mortgage bonds, for pledge and repledge from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the commission's authorization having first been obtained, granted. Bonds of B. & O. R. R. and Subsidiaries, 90.**

**Authority to issue first-lien and refunding mortgage bonds, said bonds to be pledged and repledged, from time to time, until otherwise ordered, as collateral security for any notes which it may issue under paragraph (9) of section 20a of the act without the Commission's authorization having first been obtained, granted. Bonds of B. & O. R. R., 407.**

**Baltimore & Ohio R. R. Co. in Pennsylvania, a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.**

**Baltimore & Ohio Southwestern R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees upon certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.**

**Buffalo, Rochester & Pittsburgh Ry. Co., upon supplemental report, authority granted to sell consolidated mortgage bonds the issue of which has heretofore been authorized in 67 I. C. C., 636. Bonds of B., R. & P. Ry., 703.**

**Bullfrog Goldfield R. R. Co., authority to deliver new first-mortgage 5 per cent bonds in exchange, par for par, for a like aggregate amount of first-mortgage 6 per cent bonds and second-mortgage income bonds now outstanding; and new first-mortgage 5 per cent bonds, at par, in partial satisfaction of unpaid interest accrued on outstanding first-mortgage bonds, granted. Bonds of B. G. R. R., 354.**

**Burlington, Cedar Rapids & Northern Ry. Co., authority to sell consolidated first-mortgage bonds to the Chicago, Rock Island & Pacific Ry. Co., granted. The Rock Island proposes to supply the funds with which to pay off and retire outstanding first-mortgage bonds and to accept the consolidated first-mortgage bonds in reimbursement of the cash thus advanced. Bonds of B., C. R. & N. Ry. and C., R. I. & P. Ry., 490.**

**Carolina, Clinchfield & Ohio Ry., authority to pledge first-mortgage gold bonds as security for a loan under section 210 of the transportation act, 1920, granted. Securities of C., C. & O. Ry., 836.**

**Central Vermont Ry. Co.:**

**Authority to procure authentication and delivery to applicant's treasurer of refunding-mortgage gold bonds, in order that it may reimburse its treasury for expenditures therefrom in payment of equipment gold notes, granted. Bonds of C. V. Ry., 443.**

**Upon supplemental report, authority to pledge refunding mortgage gold bonds with the Secretary of the Treasury as part collateral security for a loan from the United States heretofore authorized in 70 I. C. C., 572, granted. Bonds of C. V. Ry., 585; 592.**

**BONDS—Continued.****Chesapeake & Ohio Ry. Co.:**

Authority to nominally issue first-lien and improvement bonds in respect of expenditures made for refunding and construction, and as the right thereto shall accrue, for additions and betterments; and to pledge part of said bonds as collateral security for loans from the United States under section 210 of the transportation act, 1920, granted. Bonds of C. & O. Ry., 228.

Authority to assume the obligation of the Chesapeake & Ohio Northern Ry. Co., to pay the principal and interest of its first-mortgage gold bonds, granted. Acquisition of C. & O. N. Ry. by C. & O. Ry., 550.

Authority to assume obligation and liability as lessee, in respect of first-mortgage gold bonds of the Chesapeake & Ohio Ry. Co. of Indiana, by agreeing to pay the principal and interest of said bonds; to perform all the covenants and conditions of the mortgage securing them; and to indemnify and hold the lessor harmless from forfeiture or liability by reason of any breach of such covenants and conditions, granted. Lease of C. & O. Ry. of Indiana by C. & O. Ry. Co., 694.

**Chicago & North Western Ry. Co.:**

Authority to procure authentication and delivery to applicant's treasurer of general-mortgage gold bonds on account of expenditures made in the payment and retirement of certain underlying bonds, granted. Bonds of C. & N. W. Ry., 758.

Authority to procure authentication and delivery to applicant's treasurer of general-mortgage gold bonds and of first and refunding mortgage gold bonds for the purpose of reimbursing its treasury in part for money expended out of income in the construction of additions, betterments, and improvements, granted. Bonds of C. & N. W. Ry., 762.

Chicago, Burlington & Quincy R. R. Co., together with other proprietary companies authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. Bonds of Chicago Union Station Co., 191.

Chicago, Indianapolis & Louisville Ry. Co., authority to issue first and general mortgage gold bonds in exchange for an equal amount of other bonds; to sell part of said bonds for purpose of reimbursing its treasury for expenditures for additions and betterments; and to pledge and repledge, from time to time, the remainder as collateral security for any notes which may be issued under paragraph (9) of section 20a of the act, without the Commission's authorization therefor having first been obtained, granted. Bonds of C., I. & L. Ry., 803.

**Chicago, Milwaukee & St. Paul Ry. Co.:**

Authority to assume, as lessee, obligation and liability in respect of the payment of the principal and interest of equipment bonds, first and refunding mortgage bonds, and income-mortgage bonds of the Chicago, Terre Haute & S. E. Ry. Co.; of first-mortgage bonds of the Bedford Belt Ry. Co.; and of first-mortgage bonds of the Southern Indiana Ry. Co., granted. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20.



**BONDS—Continued.****Chicago, Milwaukee & St. Paul Ry. Co.—Continued.**

Together with other proprietary companies authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. Bonds of Chicago Union Station Co., 191.

Upon supplemental report authority to assume, as lessee, the obligation or liability of the Chicago, Terre Haute & S. E. Ry. Co. in respect of the payment of the principal and interest of first and refunding mortgage gold bonds, in accordance with the terms of an indenture of lease made by and between the applicants, granted. Former report 70 I. C. C., 20. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 594.

**Chicago, Rock Island & Pacific Ry. Co.:**

Authority to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of first-mortgage gold bonds of the Rock Island, Arkansas & Louisiana R. R. Co., granted. Authorized issue is to be used in full payment for moneys advanced for improvements and additions. Assumption of Obligation by C., R. I. & P. Ry. Co., 80.

Authority to pledge and repledge, from time to time, all or part of first and refunding mortgage gold bonds (now pledged without the Commission's authorization) as collateral security for certain outstanding short-term notes, or for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of C., R. I. & P. Ry., 316.

Upon supplemental report, former report 70 I. C. C., 80, authority to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of first-mortgage gold bonds of the St. Paul & Kansas City Short Line R. R. Co., granted. Since the St. Paul has no credit, the applicant's guaranty will result in the creation of a market for the bonds. Applicant proposes to hold these bonds in its treasury to be pledged as collateral security for such short-term loans as it may find necessary to make until their market price shall improve. Assumption of Obligation by C., R. I. & P. Ry., 493.

Authority to procure authentication and delivery to its treasurer of first and refunding mortgage gold bonds and to pledge and repledge from time to time all or any part thereof as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of B., C. R. & N. Ry. and C., R. I. & P. Ry., 499.



**BONDS—Continued.**

**Chicago, St. Louis & New Orleans R. R. Co. and Illinois Central R. R. Co.,** authority granted to issue joint first refunding mortgage bonds to reimburse the treasury of the Illinois Central for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans R. R. Co. and the Canton, Aberdeen & Nashville R. R. Co., and to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained. Bonds of I. C. and C., St. L. & N. O. R. R., 277.

**Chicago, Terre Haute & S. E. Ry. Co.,** upon supplemental report, authority to issue first and refunding mortgage gold bonds; said bonds to be delivered to the C., M. & St. P. Ry. Co. to reimburse it for the payment of certain obligations in accordance with the terms of an indenture of lease made by and between the applicants, granted. Former report 70 I. C. C., 20. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 594.

**Chicago Union Station Co.,** authority to issue first-mortgage bonds, the proceeds to be used solely in the construction of its union passenger station and facilities at Chicago, Ill., granted. Bonds of C. U. T. Co., 191.

**Cisco & Northeastern Ry. Co.,** authority to issue first-mortgage gold bonds, part thereof to be used to pay certain promissory notes and accrued interest thereon; and the remainder to be sold and/or to be pledged as collateral security for any notes which may be issued under paragraph (9) of section 20a of the act; the proceeds to be applied to the costs of constructing and equipping applicant's line, and of additions, betterments, and extensions thereto, granted. Securities of C. & N. E. Ry., 260.

**Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.,** authority to issue refunding and improvement mortgage bonds; said bonds to be pledged as collateral security for a promissory demand note issued by applicant to the Director General of Railroads in payment of its indebtedness to the United States for additions and betterments made to its property during Federal control, granted. Bonds of C., C., C. & St. L. Ry., 473.

**Cumberland & Manchester R. R. Co.:**

Authority to pledge first-mortgage gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States, granted. Securities of C. & M. R. R., 9.

Authority to issue and sell general mortgage gold bonds, the proceeds thereof to be used for additions and betterments to road and equipment, granted. Id. (9).

**Duluth, Missabe & Northern Ry. Co.,** authority to issue general-mortgage gold bonds for the purpose of refunding a like amount of maturing first-division mortgage bonds, granted. Bonds of D., M. & N. Ry., 708.

**Fairmount, Morgantown & Pittsburg R. R. Co.,** a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**Fort Smith & Western Ry. Co.,** authority to issue common stock and first and second mortgage bonds, which securities applicant proposes to exchange for first-mortgage bonds of the old Ft. Smith & Western R. R. Co., and to use the last-mentioned bonds for the purpose of acquiring at a mortgage-foreclosure sale all of the property, assets, and franchises of the old company, granted. Securities of Ft. S. & W. Ry., 777.

**BONDS—Continued.**

**Fort Worth & Denver City Ry. Co., authority to extend maturity date of first-mortgage bonds, granted. Bonds of Ft. W. & D. C. Ry., 608.**

**Gainesville & Northwestern R. R. Co., authority to issue first-mortgage bonds, and to pledge them as security for a loan from the United States for the purpose of liquidating part of its indebtedness, granted. Bonds of G. & N. W. R. R., 843.**

**Georgia R. R. & Banking Co., authority to issue and sell debenture bonds, the proceeds thereof to be used in connection with other funds to pay off and retire a like amount of plain debentures now outstanding, granted. Debentures of G. R. R. & B. Co., 467.**

**Illinois Central R. R. Co.:**

**Together with the Chicago, St. Louis & New Orleans R. R. Co., granted authority to issue joint first refunding mortgage bonds to reimburse the treasury of the Illinois Central for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans R. R. Co. and the Canton, Aberdeen & Nashville R. R. Co., and to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained. Bonds of I. C. and C., St. L. & N. O. R. R., 277.**

**Authority to issue and sell secured gold bonds to secure funds to meet certain maturing indebtedness and to pledge as collateral security therefor certain refunding mortgage bonds of the applicant and the Chicago, St. Louis & New Orleans R. R. Co., granted. Bonds of I. C. R. R. Co., 274.**

**Jackson & Eastern Ry. Co., authority to issue and sell first-mortgage bonds for the purpose of reimbursing its treasury for expenditures heretofore made for additions and betterments and not yet capitalized, granted. Bonds of J. & E. Ry., 495.**

**Kansas, Oklahoma & Gulf Ry. Co., upon supplemental report, former report 65 I. C. C., 672, authority granted to issue cumulative income bonds for the purpose of taking up, acquiring, or otherwise satisfying or liquidating certain claims against the Missouri, Oklahoma & Gulf Ry. Co. and the Missouri, Oklahoma & Gulf R. R. Co., which claims existed prior to receivership and which have been recommended for allowance by the special master in accordance with the provisions of the plan of adjustment adopted by the court having jurisdiction of the receivership proceedings. Securities of K., O. & G. Ry., 78.**

**Lancaster & Chester Ry. Co., authority to enter into an agreement with the holder of first-mortgage gold bonds for the extension of the maturity date, and to increase the rate of interest thereon from 5 to 7 per cent per annum, granted. Bonds of L. & C. Ry., 280.**

**BONDS—Continued.**

**Leavenworth & Topeka R. R. Co.**, authority to issue first-mortgage bonds, part thereof to be delivered to certain persons in part payment for equitable or contingent interests held by them in and to the line of railroad operated by applicant, part to be sold for the purpose of reimbursing the treasury for a like amount in cash heretofore expended in part payment for such equitable or contingent interest, and the remainder to be deposited for the purpose of creating a sinking fund as required by the laws of Kansas, granted. Bonds of L. & T. R. R., 288.

**Long Fork Ry. Co.**, a subsidiary of the Baltimore & Ohio R. R. Co., granted authority to issue capital stock and first-mortgage bonds for delivery to the B. & O. in settlement for advances made for capital purposes. Securities of L. F. Ry., 330.

**Louisville & Nashville R. R.**, authority to issue and sell first and refunding mortgage gold bonds for purpose of reimbursing its treasury for expenditures for additions and betterments, and for purpose of retiring first-mortgage bonds of certain predecessor companies, granted. Securities of L. & N. R. R., 749.

**Manchester & Oneida Ry. Co.**, authority to issue new first mortgage 6 per cent bonds, to be exchanged, par for par, for a like aggregate amount of first-mortgage 5 per cent bonds now outstanding, granted. Bonds of M. & O. Ry. Co., 672.

**Minneapolis & St. Louis R. R. Co.:**

Upon supplemental report, former report 67 I. C. C., 362, authority granted to issue refunding and extension mortgage gold bonds for the purpose of reimbursing its treasury for expenditures made for retirement of equipment obligations and for additions and betterments to roadway and structures. Bonds of M. & St. L. R. R., 56.

Upon supplemental report, authority granted to pledge and repledge from time to time all or any part of refunding and extension mortgage gold bonds, issue of which was authorized in 70 I. C. C., 56, as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having been first obtained. Bonds of M. & St. L. R. R., 242.

**Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.:**

Authority to issue first consolidated mortgage bonds to be used in part payment for the property of the Wisconsin & Northern R. R. Co., granted. Acquisition of W. & N. R. R. by M., St. P. & S. S. M. Ry., 31.

Authority to issue and sell collateral-trust gold bonds; to issue and pledge as collateral security therefor first refunding mortgage bonds; and to procure authentication and delivery to applicant's treasurer first refunding mortgage bonds, to be held in the treasury until further order of the Commission, granted. Securities of M., St. P. & S. S. M. Ry., 453.

**Missouri Pacific R. R. Co.**, authority to issue from time to time first and refunding mortgage bonds, by selling said bonds, or any part thereof, or by pledging and repledging the same, or any part thereof, as collateral security for any notes which may be issued under paragraph (9) of section 20a of the act, granted. Bonds of M. P. R. R., 221.

**BONDS—Continued.**

New Orleans, Texas & Mexico Ry. Co., authority to issue first-mortgage bonds as collateral security for a note payable to the Columbia Trust Co., within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization having first been obtained, granted. Bonds of N. O. T. & M. Ry., 271.

New York Central R. R. Co.:

Authority to issue 4 per cent consolidation mortgage bonds in exchange, par for par, for a like amount of New York Central & Hudson River R. R. Co.'s 3½ per cent Lake Shore collateral bonds, granted. Bonds of N. Y. C. R. R., 282.

Authority to issue refunding and improvement mortgage bonds, and to pledge them with the Director General of Railroads as security for a demand note given in payment of indebtedness to the United States for additions and betterments made to its property and leased lines during Federal control, granted. Bonds of N. Y. C. R. R., 598.

Oregon-Washington R. R. & Navigation Co., authority to assume additional liability, for a consideration, by the modification of the tax covenant of its outstanding first and refunding mortgage bonds, granted. Bonds of O.-W. R. R. & Nav. Co., 99.

Pennsylvania Co., together with other proprietary companies authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. Bonds of Chicago Union Station Co., 191.

Pittsburgh & Western R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co., together with other proprietary companies authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. Bonds of Chicago Union Station Co., 191.

Pittsburgh Junction R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Rock Island, Arkansas & Louisiana R. R. Co., authority to issue first-mortgage gold bonds, and to deliver them to the C., R. I. & P. Ry. Co. in reimbursement of advances for additions and betterments to applicant's line, granted. Bonds of R. I., A. & L. R. R., 17.

St. Louis-San Francisco Ry. Co.:

Authority to issue prior-lien mortgage bonds to be pledged and re-pledged, from time to time, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of St. L.-S. F. Ry., 587.

**BONDS—Continued.****St. Louis-San Francisco Ry. Co.—Continued.**

Authority to issue prior-lien mortgage bonds to be pledged and re-pledged, from time to time, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act, without the Commission's authorization therefor having first been obtained, granted. Bonds of St. L.-S. F. Ry., 792.

St. Paul & Kansas City Short Line R. R. Co., authority to issue first-mortgage bonds and to deliver them to the Chicago, Rock Island & Pacific Ry. Co. in reimbursement of advances for additions and betterments, granted. Bonds of St. P. & K. C. S. L. R. R., 491.

Schuylkill River East Side R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Sewell Valley R. R. Co., authority to issue first-mortgage gold bonds for the purpose of paying indebtedness in open account incurred in the purchase of coal cars, and to reimburse its treasury in part for money expended in the purchase of a locomotive, granted. Bonds of S. V. R. R., 765.

Southern Pacific Co., authority to assume obligation or liability as guarantor by indorsement in respect of the principal and interest on first mortgage bonds of the Houston East & West Texas Ry. Co., granted. Assumption of Obligation by S. P. Co., 88.

**Southern Ry. Co.:**

Authority to sell first consolidated mortgage gold bonds for the purpose of providing funds for the redemption of an equal amount of maturing first-mortgage bonds of the Georgia Pacific Ry. Co., granted. Bonds of S. Ry., 528.

Authority to procure authentication and delivery to applicant's treasurer of development and general mortgage gold bonds, to be held in the treasury until further order of the Commission, granted. Bonds of S. Ry., 771.

Terminal R. R. Asso. of St. Louis, authority to pledge general-mortgage gold bonds with the Secretary of the Treasury as collateral security for the faithful performance of its contracts relating to repayment to the United States of any excess of advances over the amount of guaranty which may be finally certified pursuant to the provisions of section 209 of the transportation act, granted. Bonds of T. R. R. Asso. of St. L., 415.

Texas City Terminal Ry. Co., authority to issue 20-year sinking fund first-mortgage gold bonds, and to deliver same at face value in part payment for the property formerly owned by the Texas City Transportation Co., which property applicant proposes to operate, granted. Securities of T. C. T. Ry. Co., 244.

Toledo & Cincinnati R. R. Co., authority to issue first and refunding mortgage bonds to be delivered to the Baltimore & Ohio R. R. Co., and by it pledged with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage, granted. Bonds of B. & O. R. R., 407.

Union Pacific R. R. Co., authority to assume obligation or liability in respect of certain bonds of the Oregon-Washington R. R. & Nav. Co., a subsidiary, by guaranteeing by indorsement the payment of principal and interest thereon, granted. Bonds of O.-W. R. R. & Nav. Co., 99.

**BONDS—Continued.**

Washington County R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Waterloo, Cedar Falls & Northern Ry. Co., authority to issue and pledge general mortgage bonds as collateral security for loans from the United States, granted. Securities of W., C. F. & N. Ry. Co., 370.

Western Maryland Ry. Co., authority to procure authentication and delivery to applicant's treasurer of first and refunding mortgage gold bonds in order that it may reimburse its treasury for expenditures therefrom in payment for the acquisition of terminals, terminal facilities, and other property, and for extensions, betterments, and improvements, and also for the purchase and acquisition of new equipment and for improvements to existing equipment; and to pledge first and refunding mortgage gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States, granted. Bonds of W. M. Ry., 480.

Western Pacific R. R. Co., authority to issue and sell first-mortgage bonds, the proceeds thereof to be applied to the redemption and payment of outstanding equipment gold notes, and to reimburse applicant in part for the payment of notes which became due, granted. Bonds of W. P. R. R., 622.

**Wheeling & Lake Erie Ry. Co.:**

Upon supplemental report, former report 70 I. C. C., 44, authority to issue refunding mortgage bonds for the purpose of pledging them with the Secretary of the Treasury as security for obligations arising under the National Ry. Service Corporation's equipment trust, granted. Bonds of W. & L. E. Ry. Co., 41.

Authority to pledge refunding mortgage bonds with the Secretary of the Treasury as partial security for a loan from the United States, granted. Bonds of W. & L. E. Ry., 333.

Authority to issue refunding mortgage bonds and to pledge said bonds with the Secretary of the Treasury as partial security for a loan under section 210 of the transportation act, 1920, granted. Bonds of W. & L. E. Ry., 518.

Authority to repledge refunding mortgage bonds as collateral security for notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of W. & L. E. Ry., 521.

Wheeling, Pittsburgh & Baltimore R. R. Co., a subsidiary of the B. & O. R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**BRANCH LINES.****Abandonment:**

Atchison, Topeka & Santa Fe Ry. Co., certificate of public convenience and necessity authorizing the abandonment of a branch line in Kay County, Okla., issued. Branch was constructed to afford freight service to the Blackwell oil field; production from the wells has diminished almost to the vanishing point; at no time was there sufficient business to warrant regular freight or passenger service; service provided was conducted at a material net loss; and there is no present need for operation and none is likely to develop in the future. Public Convenience Certificate to A., T. & S. F. Ry., 377.



**BRANCH LINES—Continued.****Acquisition of Control:**

Central R. R. Co. of New Jersey, certificate of public convenience and necessity to acquire in part, construct in part, and to operate a branch line of railroad in Cumberland County, N. J., issued. Proposed line will provide improved facilities for the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Public Convenience Certificate to C. R. R. Co. of N. J., 4.

Mississippi Central R. R. Co., acquisition of control, by lease, of a branch line of the Gulf, Mobile & Northern R. R. Co., extending from Beaumont to Hattiesburg, Miss., approved and authorized. The applicant will connect its tracks with the leased line and will operate into the city of Hattiesburg, Miss., over its own rails, using its own freight station and the passenger station of the Gulf & Ship Island R. R. Co. Public Convenience Certificate to M. C. R. R., 425.

**Construction:**

Buffalo, Rochester & Pittsburgh Ry. Co., certificate of public convenience and necessity for the construction of a branch line in Indiana County, Pa., issued. Proposed branch line will permit the development of bituminous coal territory which is not served by any railroad and for which there is no outlet, and it appears that there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to B., R. & P. Ry., 1.

**CALAMITOUS VISITATION.**

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in repairing and replacing the right of way which was severely damaged by floods, granted. Notes of F. V. R. R., 524.

**CAPITAL EXPENDITURES.**

Long Fork Ry. Co., a subsidiary of the Baltimore & Ohio, granted authority to issue capital stock and first-mortgage bonds for delivery to the B. & O. in settlement for advances made for capital purposes. Securities of L. F. Ry., 330.

Springfield Terminal Ry. Co., authority to issue capital stock at par for cash, the proceeds thereof to be used to pay certain indebtedness on capital account incurred in connection with the construction of an extension of its line, granted. Stock of S. T. Ry., 258.

**CAPITALIZATION.**

In General: Carrier sought authority to issue stock dividends made from time to time, as further expenditures shall be made from income for additions and betterments, thus capitalizing such expenditures. *Held:* Authority therefor should be requested when such expenditures have been made. Securities Application of D. & T. S. L. R. R., 322 (323).

Detroit & Toledo Shore Line R. R. Co., proposed issues of capital stock as dividends held not compatible with the public interest and application denied. Evidence fails to establish satisfactorily that the value of the road and equipment, plus a proper sum for working capital and materials and supplies, exceeds or equals the present capitalization. Securities Application of D. & T. S. L. R. R., 322.

**CAPITAL STOCK. See Stocks.**



**BRANCH LINES—Continued.****Abandonment—Continued.**

**Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.,** certificate of public convenience and necessity authorizing the abandonment of its Deerwood branch in Crow Wing County, Minn., issued. Branch was constructed primarily for the purpose of developing bodies of iron ore in the South Cuyuna Range, but subsequent exploration proved the ore to be of no commercial value and none of it was ever shipped. Train service has been discontinued because of no traffic; the roadway, culverts, and bridges are unsafe for operation; the region traversed is rocky and practically untillable; and the line was operated at a substantial loss from the time it was opened to traffic. Public Convenience Certificate to M., St. P. & S. S. M. Ry., 698.

**Mississippi Central R. R. Co.—**

Certificate of public convenience and necessity authorizing the abandonment of operation of part of branch line to be leased from the Gulf, Mobile & Northern R. R. Co., in the city of Hattiesburg, Miss., issued. The station facilities of the New Orleans & Northeastern, now used by the Gulf, will thus be no longer needed and there will be no necessity for operating regular trains over that part of the line which lies between the Gulf's connection with the New Orleans & Northeastern and with the applicant's rails. Public Convenience Certificate to M. C. R. R., 425.

Certificate of public convenience and necessity authorizing the abandonment of a branch line of railroad in Forrest County, Miss., issued. There is now no demand for continued service except for removing the salvage from Camp Shelby, which is being dismantled. Id. (425).

**Pere Marquette Ry. Co.—**

Certificate of public convenience and necessity authorizing the abandonment of a branch line in Benzie County, Mich., issued. Line was built to provide transportation for forest products, the supply of which has been exhausted; territory is served by other lines which provide it with adequate and reasonably convenient transportation facilities; there are no towns or villages on the branch proposed to be abandoned; and there is no prospect that any new traffic will be available in the near future. Public Convenience Certificate to P. M. Ry., 324.

Certificate of public convenience and necessity authorizing the abandonment of a branch line in Clare County, Mich., issued. Line was primarily built as a logging road. The territory served is thinly populated and is decreasing in population each year; the forest products have practically been exhausted, and there is no prospect of any increase in freight or passenger traffic. Public Convenience Certificate to Pere Marquette Ry., 535.

**BRANCH LINES—Continued.****Acquisition of Control:**

Central R. R. Co. of New Jersey, certificate of public convenience and necessity to acquire in part, construct in part, and to operate a branch line of railroad in Cumberland County, N. J., issued. Proposed line will provide improved facilities for the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Public Convenience Certificate to C. R. R. Co. of N. J., 4.

Mississippi Central R. R. Co., acquisition of control, by lease, of a branch line of the Gulf, Mobile & Northern R. R. Co., extending from Beaumont to Hattiesburg, Miss., approved and authorized. The applicant will connect its tracks with the leased line and will operate into the city of Hattiesburg, Miss., over its own rails, using its own freight station and the passenger station of the Gulf & Ship Island R. R. Co. Public Convenience Certificate to M. C. R. R., 425.

**Construction:**

Buffalo, Rochester & Pittsburgh Ry. Co., certificate of public convenience and necessity for the construction of a branch line in Indiana County, Pa., issued. Proposed branch line will permit the development of bituminous coal territory which is not served by any railroad and for which there is no outlet, and it appears that there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to B., R. & P. Ry., 1.

**CALAMITOUS VISITATION.**

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in repairing and replacing the right of way which was severely damaged by floods, granted. Notes of F. V. R. R., 524.

**CAPITAL EXPENDITURES.**

Long Fork Ry. Co., a subsidiary of the Baltimore & Ohio, granted authority to issue capital stock and first-mortgage bonds for delivery to the B. & O. in settlement for advances made for capital purposes. Securities of L. F. Ry., 330.

Springfield Terminal Ry. Co., authority to issue capital stock at par for cash, the proceeds thereof to be used to pay certain indebtedness on capital account incurred in connection with the construction of an extension of its line, granted. Stock of S. T. Ry., 258.

**CAPITALIZATION.**

In General: Carrier sought authority to issue stock dividends made from time to time, as further expenditures shall be made from income for additions and betterments, thus capitalizing such expenditures. *Held:* Authority therefor should be requested when such expenditures have been made. Securities Application of D. & T. S. L. R. R., 322 (323).

Detroit & Toledo Shore Line R. R. Co., proposed issues of capital stock as dividends held not compatible with the public interest and application denied. Evidence fails to establish satisfactorily that the value of the road and equipment, plus a proper sum for working capital and materials and supplies, exceeds or equals the present capitalization. Securities Application of D. & T. S. L. R. R., 322.

**CAPITAL STOCK. See Stocks.**

**"CARRIER."**

The intention of Congress was to be as specific as possible in designating those carriers for whose benefit the guaranty provisions of section 209 of the transportation act, 1920, should operate. The fact that the definition of the term "carrier" was made precludes the view that the section was intended to apply generally to all agencies of transportation over which in the time of war Federal control was assumed; and the fact that it limits the meaning of "carrier" to (1) "a carrier by railroad or partly by railroad and partly by water," and (2) "a sleeping-car company," deprives the Commission of authority to certify a payment under the guaranty to any claimant which can not bring itself clearly within one of these terms. Guaranty Claim of C., N. Y. & B. Refrigerator Co., 575 (578).

Contention that the Chicago, New York & Boston Refrigerator Co. is a carrier by railroad within the meaning of section 209 of the transportation act, 1920, because engaged in the carriage of freight over or by means of railroads and because it is engaged in handling a particular kind of traffic for the Grand Trunk Ry.; and that the term "carrier" in section 209 is as broad in its meaning as the same term in section 1 of the Federal control act; and that therefore section 209 is to be construed as to entitle every carrier which was under Federal control to a guaranty payment, not sustained. *Id.* (578).

**CERTIFICATES.** See **CONVENIENCE AND NECESSITY**; **EQUIPMENT-TRUST CERTIFICATES**; **RECEIVER'S CERTIFICATES**.

**COLLATERAL SECURITY.** See **SECURITY**.

**COMMON STOCK.** See **STOCKS**.

**COMPETITION.**

**Motor Vehicle:**

**Boston & Maine R. R.—**

Certificate of public convenience authorizing the abandonment of a branch line extending from the station of Cherry Mountain to Jefferson, both in Coos County, N. H., issued. Line was built for the accommodation of summer-resort travel to and from a hotel and numerous cottages in the town of Jefferson; the growth of automobile travel has caused a steady diminution in the passenger traffic handled; and there is no prospect that any new traffic will be available in the future. Public-Convenience Certificate to B. & M. R. R., 224.

Certificate of public convenience and necessity authorizing the abandonment of a branch line from Bethlehem Junction to the station of Profile House, both in Grafton County, N. H., issued. Line was built for the accommodation of passengers traveling to the summer resort known as Profile House, but due to the competition of automobiles, the traffic has been reduced to practically nothing and there is no prospect of the traffic increasing in the near future. Public-Convenience Certificate to B. & M. R. R., 226.

Hawkinsville & Florida Southern Ry. Co., certificate of public convenience and necessity authorizing the abandonment of its line of railroad in Georgia issued. Traffic is mostly local and revenues have been adversely affected by automobile and truck competition, and it appears clear that the road has not, and can not be, operated except at a loss. Abandonment of H. & F. S. Ry., 566.

**CONFISCATION.**

Principle that consideration must be given to the business of the carrier as a whole is not to be extended so as to include operating losses of a carrier in the operation of its affiliated companies, since that view would disregard rights of the minority. Nor is the question of profit and loss a matter to be passed upon by the courts alone. Such a construction of paragraph (18) of section 1 would condemn the provision on constitutional grounds, since any refusal on the Commission's part to consider operating losses might very well result in a denial of the application, so that the effect of the paragraph would then be to require the carrier to continue to operate at a loss, and amount to confiscation. *Abandonment of Hawkinsville & Florida Southern Ry.*, 566 (568).

**CONGRESSIONAL REPORTS.**

In case of ambiguity it is permissible, in interpreting a statute, to refer to the reports of Congress. *Securities Application of P. & W. V. Ry.*, 682 (685).

**CONSOLIDATION. See also ACQUISITION OF CONTROL.****In General:**

Technically, a consolidation is sometimes defined as a union of companies where a new corporation is created to take over the powers and property of the consolidating corporations. However, the word "consolidate" is not used in paragraph (6) of section 5 in a narrow sense, but the language of the paragraph is broad enough to cover any form of union under which "properties theretofore in separate ownership, management, and operation" pass into the possession of a single corporation for ownership, management, and operation. *Securities Application of P. & W. V. Ry.*, 682 (684).

It is definitely and unmistakably provided under paragraph (1) of section 5 of the act that an agreement for the pooling of freights or the division of earnings shall be unlawful unless and until it receives the specific approval of the Commission. *Id.* (685).

In the development of the transportation act, 1920, as a constructive measure for the solution of the railroad problem, great importance was attached by Congress to the ultimate consolidation of the carriers into a limited number of great systems. It was the intent of Congress that complete control over the situation should be in the Commission's hands, so that the working out of a constructive policy might be safeguarded in every possible way, and so that consolidations or other union of interest might not be effected without the consent of the Commission. *Id.* (687-688).

When, as in paragraph (6) of section 5 of the act, it is provided that "it shall be lawful" to consolidate under certain conditions, this is but another way of saying that consolidations in disregard of those conditions shall be unlawful. And in like manner, when it is provided, as in paragraph (2) of that section, that the Commission may authorize the acquisition of one carrier or control of another in any manner falling short of consolidation, whenever such acquisition "will be in the public interest," this is equivalent to saying that authority for the acquisition shall not exist under other conditions. *Id.* (688).

**CONSOLIDATION—Continued.****In General—Continued.**

If it had been intended that the provisions of section 5 of the act should merely afford a means of escaping from the restraints of the "antitrust laws" and other State or Federal statutes, much simpler machinery would have been devised for accomplishing the purpose. The "plan of consolidation" is incompatible with such an interpretation of the section and embodies a policy of far greater breadth and vision. *Id.* (688).

**Telephone Companies:**

**Chesapeake & Potomac Telephone Co. and Ohio Bell Telephone Co.:** Certificate of advantage and public interest authorizing the acquisition by the Ohio Bell of the property of the Chesapeake & Potomac in the State of Ohio, issued. Proposed transfer will result in more economical and efficient operation since the properties will be merged and become an integral part of the Ohio Company, eliminating considerable general office and other overhead expense, and the inconvenience and added expense resulting from duplication of services where both companies operate in the same municipality. **Acquisition of Property of C. & P. Tel. Co., 768.**

**Cumberland Telephone & Telegraph Co. (Inc.), East Tennessee Telephone Co. of Virginia, Bristol Telephone Co., and the Chesapeake & Potomac Telephone Co. of Virginia:** Certificate of advantage and public interest authorizing the consolidation of properties in Tennessee and Virginia into the Inter-Mountain Telephone Co., issued. Telephone users in these localities have been subjected to much inconvenience by reason of the maintenance of competing exchanges, and service as a result of this and other adverse conditions has been unsatisfactory. Furthermore, the total investment of the consolidated company upon which rates in the future must be based will be considerably less than the aggregate investment of the four companies. **Consolidation of Certain Tel. Cos. in Tenn. and Va., 705.**

**Ohio Bell Telephone Co. and Ohio State Telephone Co.,** certificate authorizing consolidation issued. Much of the inconvenience and expense attendant upon the present method of operating duplicate facilities will thus be eliminated, and local rates will then be adjusted on the basis of the fair value of the property devoted to the service of the public. **Consolidation of Ohio Bell and Ohio State Tel. Cos., 463.**

**Rock County Telephone Co. and Wisconsin Telephone Co.,** certificate authorizing acquisition of the Rock County by the Wisconsin, issued. Consolidation of these competing properties will eliminate much of the inconvenience and expense attendant upon the present method of operating duplicate facilities. **Acquisition of property of R. C. Tel. Co. by W. Tel. Co., 636.**

**CONSTRUCTION OF STATUTE.**

The operation of the physical property of one carrier by another does not constitute an abandonment of operation of the carrier taken over within the meaning of paragraph (18), section 1, of the act, and no certificate of public convenience and necessity is required. **Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20 (24).**

**CONSTRUCTION OF STATUTE—Continued.**

The guaranty under section 209 of the transportation act is wholly independent of any damages which carriers may have suffered by reason of the temporary taking of their property during the period of Federal control. For all such damages the Government must render just compensation; and by their acceptance of the provisions of section 209 the carriers have in no way surrendered or abated any claims arising out of Federal operation. Maintenance Expenses under Section 209, 115 (116).

The guaranty under section 209 of the transportation act was not founded upon a legal obligation, but upon the thought that in fairness it was the duty of the Government to protect the income of the carriers, following the termination of Federal control, until such time as higher rates could be made effective under the provisions of section 15a of the interstate commerce act. *Id.* (116-117).

Section 1 of the Federal control act authorized the President to agree with and to guarantee to each carrier that it should receive as just compensation during Federal control an annual sum "*not exceeding* a sum equivalent as nearly as may be to its average annual railway operating income for the three years ended June 30, 1917." This fixed the maximum compensation, known as the "standard return," which the President might voluntarily agree to pay. It did not preclude him from offering less or the carriers from seeking more; and provision was made for reference, in default of agreement, to a board of referees and ultimately to the Court of Claims. *Id.* (117-118).

In the interpretation of statutes the administration of which is committed to such special tribunals as the executive departments, the Supreme Court of the United States has followed the interpretations of the administrative bodies in cases of doubtful meaning, and has deemed a reenactment of any such statute with knowledge of the administrative interpretation, without corrective change, as a congressional sanction or adoption of that interpretation. *Id.* (125).

Cessation of operations under ordinary trackage rights is not prohibited by paragraph (18) of section 1 of the interstate commerce act. Public Convenience Application of G. B. & W. R. R., 251.

Principle that consideration must be given to the business of the carrier as a whole is not to be extended so as to include operating losses of a carrier in the operation of its affiliated companies, since that view would disregard rights of the minority. Nor is the question of profit and loss a matter to be passed upon by the courts alone. Such a construction of paragraph (18) of section 1 would condemn the provision on constitutional grounds, since any refusal on the Commission's part to consider operating losses might very well result in a denial of the application, so that the effect of the paragraph would then be to require the carrier to continue to operate at a loss, and amount to confiscation. Abandonment of Hawkinsville & Florida Southern Ry., 566 (568).

**CONSTRUCTION OF STATUTE—Continued.**

The intention of Congress was to be as specific as possible in designating those carriers for whose benefit the guaranty provisions of section 209 of the transportation act, 1920, should operate. The fact that the definition of the term "carrier" was made, precludes the view that the section was intended to apply generally to all agencies of transportation over which in the time of war Federal control was assumed; and the fact that it limits the meaning of "carrier" to (1) "a carrier by railroad or partly by railroad and partly by water," and (2) "a sleeping-car company," deprives the Commission of authority to certify a payment under the guaranty to any claimant which can not bring itself clearly within one of these terms. *Guaranty Claim of C., N. Y. & B. Refrigerator Co.*, 575 (578).

Contention that the term "carrier" in section 209 of the transportation act, 1920, is as broad in its meaning as the same term in section 1 of the Federal control act; and that therefore, section 209 is to be construed as to entitle every carrier which was under Federal control to a guaranty payment, not sustained. *Id.* (578).

The word "consolidate" is not used in paragraph (6) of section 5 in a narrow sense, but the language of the paragraph is broad enough to cover any form of union under which "properties theretofore in separate ownership, management, and operation" pass into the possession of a single corporation for ownership, management, and operation. *Securities Application of P. & W. V. Ry.*, 682 (684).

It is definitely and unmistakably provided under paragraph (1) of section 5 of the act that an agreement for the pooling of freights or the division of earnings shall be unlawful unless and until it receives the specific approval of the Commission. *Id.* (685).

In case of ambiguity it is permissible, in interpreting a statute, to refer to the reports of Congress. *Id.* (685).

In the development of the transportation act, 1920, as a constructive measure for the solution of the railroad problem, great importance was attached by Congress to the ultimate consolidation of the carriers into a limited number of great systems. It was the intent of Congress that complete control over the situation should be in the Commission's hands, so that the working out of a constructive policy might be safeguarded in every possible way, and so that consolidations or other union of interest might not be effected without the consent of the Commission. *Id.* (687-688).

When, as in paragraph (6) of section 5 of the act, it is provided that "it shall be lawful" to consolidate under certain conditions, this is but another way of saying that consolidations in disregard of those conditions shall be unlawful. And in like manner, when it is provided, as in paragraph (2) of that section, that the Commission may authorize the acquisition of one carrier or control of another in any manner falling short of consolidation, whenever such acquisition "will be in the public interest," this is equivalent to saying that authority for the acquisition shall not exist under other conditions. *Id.* (688).



**CONSTRUCTION OF STATUTE—Continued.**

If it had been intended that the provisions of section 5 of the act should merely afford a means of escaping from the restraints of the "anti-trust laws" and other State or Federal statutes, much simpler machinery would have been devised for accomplishing the purpose. The "plan of consolidation" is incompatible with such an interpretation of the section and embodies a policy of far greater breadth and vision. *Id.* (688).

**CONTRACTS.**

Boston & Albany R. R. Co., execution of a new contract whereby the Boston & Albany through its lessee, the New York Central R. R. Co., operates the line of the Providence, Webster & Springfield R. R. Co., approved and authorized. The Providence does not connect with any railroad except that of the Boston, does not parallel or compete with applicant's line, maintain any operating organization, or own any equipment. Separate operation of this line is practically impossible; it must be operated by the Boston, or its lessee, if it is to remain in the transportation service; and the proposed contract continues in force a relation that has existed since 1884. Contract for Operation of P., W. & S. R. R., 470.

Grand Trunk Western Ry. Co., proposed execution of a contract for purchase of the Lansing Connecting R. R. by the Grand Trunk Western held not to be within the provisions of section 20a of the act. Applicant does not propose to issue any notes covering deferred payments and is not to assume obligation or liability as lessor, lessee, guarantor, indorser, or otherwise in respect of securities of the Lansing. The only "security" for the issue of which authority is sought is the final agreement into which the applicant contemplates entering with the Lansing, and the Commission has no jurisdiction over such contract or agreement. Control of G. T. W. Ry. with L. C. R. R., 554.

Providence, Webster & Springfield R. R. Co., execution of a new contract whereby the Boston & Albany R. R. Co., through its lessee, the New York Central R. R. Co., operates the line of the Providence, Webster & Springfield, approved and authorized. The Providence does not connect with any railroad except that of the Boston, does not parallel or compete with applicant's line, maintain any operating organization, or own any equipment. Separate operation of this line is practically impossible; it must be operated by the Boston, or its lessee, if it is to remain in the transportation service; and the proposed contract continues in force a relation that has existed since 1884. Contract for operation of P., W. & S. R. R., 470.

**CONTROLLING COMPANY.**

Through control of a carrier by stock ownership a company is in a position to control various matters specified in a proposed mortgage, but should such company part with control through such ownership of a *majority of the stock*, it would not be proper for them to retain control over such matters. The incorporation of such provisions in a mortgage are unnecessary and improper. Securities of Texas City Terminal Ry., 244 (248).

**CONVENIENCE AND NECESSITY.****Abandonment:**

**Alabama & Mississippi R. R. Companies, certificate authorizing the abandonment of its lines in Alabama and Mississippi, issued. Territory traversed consists largely of cut-over timber lands; line is in poor physical condition, and large repairs would be required to bring the track to a state of normal maintenance; there has been a small agricultural development, but this has not afforded sufficient traffic to appreciably affect the operating revenues; and it appears reasonably clear that operation can not be conducted except at a loss. Abandonment of Lines of A. & M. R. R. Co., 531.**

**Atchison, Topeka & Santa Fe Ry. Co., certificate authorizing the abandonment of a branch line in Kay County, Okla., issued. Branch was constructed to afford freight service to the Blackwell oil field; production from the wells has diminished almost to the vanishing point; at no time was there sufficient business to warrant regular freight or passenger service; service provided was conducted at a material net loss; and there is no present need for operation and none is likely to develop in the future. Public Convenience Certificate to A., T. & S. F. Ry., 377.**

**Atlanta & St. Andrews Bay Ry. Co., certificate authorizing the abandonment of a branch line of railroad between Panama City and St. Andrews, Fla., held in abeyance pending determination of result of discontinuance of operation for an experimental period. Operation of the branch is attended by serious financial losses, but the needs of the community of St. Andrews are such that the public interest will suffer if the abandonment takes place. Public Convenience Application of A. & S. A. B. Ry., 313.**

**Bennettsville & Cheraw R. R. Co., certificate authorizing the abandonment of operation of a portion of its line between Brownsville and Sellers, in the counties of Marlboro, Dillon, and Marion, S. C., issued. Territory traversed is sparsely settled, only slightly cultivated, apparently incapable of industrial development, and there appears to be no demand for continued service. Public Convenience Certificate to B. & C. R. R., 417.**

**Boston & Maine R. R.—**

**Certificate authorizing the abandonment of a branch line extending from the station of Cherry Mountain to Jefferson, both in Coos County, N. H., issued. Line was built for the accommodation of summer-resort travel to and from a hotel and numerous cottages in the town of Jefferson; the growth of automobile travel has caused a steady diminution in the passenger traffic handled, and there is no prospect that any new traffic will be available in the future. Public Convenience Certificate to B. & M. R. R., 224.**

**Certificate authorizing the abandonment of a branch line from Bethlehem Junction to the station of Profile House, both in Grafton County, N. H., issued. Line was built for the accommodation of passengers traveling to the summer resort known as Profile House, but due to the competition of automobiles, the traffic has been reduced to practically nothing and there is no prospect of the traffic increasing in the near future. Public Convenience Certificate to B. & M. R. R., 226.**

## CONVENIENCE AND NECESSITY—Continued.

## Abandonment—Continued.

Carthage & Pinehurst R. R. Co., certificate authorizing the abandonment of its line in Moore County, N. C., issued. The Carthage has no equipment and no funds with which to purchase equipment; it can borrow no money for any purpose because of the bad financial showing during its operation under lease to the Norfolk Southern, which has proved not only unprofitable but unduly burdensome upon revenues from the Norfolk's own line; and no deprivation of shipping facilities would be suffered by the residents of the territory traversed as the towns served by it have other ample railroad facilities. Certificate of N. S. and C. & P. R. R., 774.

Central New England Ry. Co., certificate authorizing the abandonment of a portion of its line extending from the station of Feeding Hills in the town of Agawam to its connection with the Boston & Albany R. R., both in Hampden County, Mass., issued. Traffic over this line is very light and is not likely to increase in the near future; operation has resulted in a loss; and from Agawam an electric line runs directly into Springfield, Mass., hauling passengers and light freight. Abandonment of Part of C. N. E. Ry., 441.

Delta Southern Ry. Co., certificate authorizing the abandonment of its lines of railroad in Mississippi, issued. No money is now being expended for the maintenance of the property, and it is deteriorating daily; the salvage value of the lines is constantly decreasing; the applicant already is largely indebted to the State of Mississippi for taxes; and the towns, villages, and communities which it serves have not enough business now or in prospect, to supply the traffic needed to pay operating expenses. Public Convenience Certificate to D. S. Ry., 546.

Duluth & Northern Minnesota Ry. Co., certificate issued authorizing the abandonment of its line of railroad in St. Louis, Lake, and Cook Counties, Minn. Applicant's line has not been and can not be operated except at a loss. Public Convenience Certificate to D. & N. M. Ry., 184.

## Green Bay &amp; Western R. R. Co.—

Proposed abandonment of a branch line of railroad between Onalaska and La Crosse, Wis., found not justified. It has been uniformly held that the cessation of a particular service is not to be justified merely because it results in a loss, considered by itself. Consideration must be given to the business of the system as a whole. Public Convenience Application of G. B. & W. R. R., 251.

Proposed cessation of operation of trains under trackage rights over lines of the Chicago & Northwestern between Onalaska and Marshland, Wis., *Held*: Cessation of operations under ordinary trackage rights is not prohibited by paragraph (18) of section 1 of the interstate commerce act. *Id.* (251).

**CONVENIENCE AND NECESSITY—Continued.****Abandonment—Continued.**

**Hawkinsville & Florida Southern Ry. Co., certificate authorizing the abandonment of its line of railroad in Georgia, issued. The road is in poor physical condition, and large renewals must be made to bring the track to a state of normal maintenance; traffic is mostly local and revenues have been adversely affected by automobile and truck competition; operating revenues would not pay the fuel bill and pay rolls; the receiver is unable to borrow more money; and it appears clear that the road has not, and can not be, operated except at a loss. Abandonment of H. & F. S. Ry., 566.**

**Kentwood, Greensburg & Southwestern R. R. Co., certificate authorizing the abandonment of its line of railroad in Louisiana, issued. Line was built for the sole purpose of hauling forest products, territory served is "cut-over land" with a small amount of farm lands and no communities other than a small one at Greensburg, and but few people will be affected by the proposed abandonment. Public Convenience Certificate to K., G. & S. W. R. R., 201.**

**Kinder & Northwestern R. R. Co., certificate authorizing the abandonment of its line of railroad in Louisiana, issued. Line was built for the sole purpose of handling forest products; all the timber has been cut; the cut-over lands have never been developed for other uses; and there are no communities or industries located on the line to be abandoned. Public Convenience Certificate to K. & N. W. R. R. Co., 189.**

**Liberty White R. R. Co., certificate authorizing the abandonment of its line extending from Liberty to South McComb in the counties of Pike and Amite, Miss., issued. Applicant has never earned operating expenses; volume of traffic has diminished each succeeding year; and way and structures are so seriously in need of repairs that the Mississippi Railroad Commission has declared the line unsafe for operation and ordered all passenger trains discontinued. Public Convenience Certificate to L. W. R. R., 411.**

**Live Oak, Perry & Gulf R. R. Co., certificate authorizing the abandonment of a branch line in Taylor County, Fla., issued. Branch was built to afford a rail outlet for the products of a large sawmill at Loughridge. Such mill was destroyed by fire and no industry of any kind is now conducted at that point. Abandonment of part of L. O., P. & G. R. R., 607.**

**Louisiana & Northwest R. R. Co., certificate authorizing the abandonment of a portion of its line extending from Chestnut to Natchitoches, La., issued. Such portion of the road is in very poor physical condition; operation of trains over it would be unsafe; receiver has no funds with which to make necessary repairs; country is sparsely settled and no towns of size or importance are served; revenues derived from the traffic have never been sufficient to pay the costs of operation; and there does not appear to be any prospect that sufficient traffic could be developed to make this part of the line self-sustaining. Abandonment of Part of L. & N. W. R. R., 392.**

**CONVENIENCE AND NECESSITY—Continued.****Abandonment—Continued.**

Louisiana & Pacific Ry. Co., certificate authorizing the abandonment of a branch in Beauregard Parish, La., issued. Branch was built specifically to transport logs from Vandercook to Longville. The mill of the lumber company at Longville was destroyed by fire and will not be rebuilt. Territory traversed by the branch is practically uninhabited; no industries of any kind are located in it, and the products of agriculture are negligible; and as logging operations have ceased, the line could no longer be operated except at a total loss. Abandonment of Part of L. & P. Ry., 629.

Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., certificate authorizing the abandonment of its Deerwood branch in Crow Wing County, Minn., issued. Branch was constructed primarily for the purpose of developing bodies of iron ore in the South Cuyuna Range, but subsequent exploration proved the ore to be of no commercial value and none of it was ever shipped. Train service has been discontinued because of no traffic; the roadway, culverts, and bridges are unsafe for operation; the region traversed is rocky and practically untillable; and the line was operated at a substantial loss from the time it was opened to traffic. Public Convenience Certificate to M., St. P. & S. S. M. Ry., 698.

**Mississippi Central R. R. Co.—**

Certificate authorizing the abandonment of operation of part of a branch line to be leased from the Gulf, Mobile & Northern R. R. Co., in the city of Hattiesburg, Miss., issued. The station facilities of the New Orleans & Northeastern, now used by the Gulf, will thus be no longer needed, and there will be no necessity for operating regular trains over that part of the line which lies between the Gulf's connection with the New Orleans & Northeastern and with the applicant's rails. Public Convenience Certificate to M. C. R. R., 425.

Certificate authorizing the abandonment of a branch line of railroad in Forrest County, Miss., issued. There is now no demand for continued service except for removing the salvage from Camp Shelby, which is being dismantled. Id. (425).

Norfolk Southern R. R. Co., certificate authorizing the abandonment of the Carthage & Pinehurst R. R. Co., in Moore County, N. C., issued. The Carthage has no equipment and no funds with which to purchase equipment; it can borrow no money because of the bad financial showing during its operation under lease to the Norfolk Southern which has proved not only unprofitable but unduly burdensome upon the revenues from the Norfolk's own line; and no deprivation of shipping facilities would be suffered by the residents of the territory traversed as the towns served by it have other ample railroad facilities. Certificate of N. S. and C. & P. R. R., 774.

**CONVENIENCE AND NECESSITY—Continued.****Abandonment—Continued.****Pere Marquette Ry. Co.—**

Certificate authorizing the abandonment of a branch line in Benzie County, Mich., issued. Line was built to provide transportation for forest products, the supply of which has been exhausted; territory is served by other lines which provide it with adequate and reasonably convenient transportation facilities; there are no towns or villages on the branch proposed to be abandoned; and there is no prospect that any new traffic will be available in the near future. Public Convenience Certificate to P. M. Ry., 324.

Certificate authorizing the abandonment of a branch line in Clare County, Mich., issued. Line was primarily built as a logging road. The territory served is thinly populated and is decreasing in population each year; the forest products have practically been exhausted, and there is no prospect of any increase in freight or passenger traffic. Public Convenience Certificate to P. M. Ry., 535.

Seaboard Air Line Ry. Co., certificate authorizing the abandonment of its Fruitville extension in the county of Manatee, Fla., issued. Extension was constructed for the purpose of reaching timber tracts and agricultural lands beyond Fruitville; the passenger and freight traffic handled by the line is negligible; tracts of land near Fruitville formerly devoted to truck farming have been abandoned; no increase in traffic is in prospect; the line does not pay operating expenses; and the track material is needed elsewhere on applicant's road. Public-Convenience Certificate to S. A. L. Ry., 497.

Sugar Pine Ry. Co., certificate authorizing the abandonment of its line of railroad in the county of Tuolumne, Calif., issued. Line has no passenger traffic and very little commercial freight tonnage; it serves no towns, villages, or settlements along its line, but merely operates for a lumber company through cut-over timber lands; under existing conditions it can pay no return upon its investment; and as a common carrier it is evidently not required, as it performs substantially no public service. Abandonment of S. P. Ry., 478.

Wisconsin-Northwestern Ry., certificate authorizing the abandonment of its line of railroad extending from Girard Junction to Taylor Rapids in Marinette County, Wis., issued. The results of operation have shown substantial losses, but little use has been made of this line in the past, and there is little prospect of any material increase in its freight or passenger traffic in the near future. Public Convenience Certificate to Wis.-N. W. Ry., 51.

**Acquisition of Control:**

Central R. R. Co. of New Jersey, certificate to acquire in part, construct in part, and to operate a branch line of railroad in Cumberland County, N. J., issued. Proposed line will provide improved facilities for the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Public Convenience Certificate to C. R. R. Co. of N. J., 4.

Chaffee R. R. Co., certificate authorizing it to operate an existing line of railroad in Maryland and West Virginia, for purpose of furnishing transportation facilities for the output of certain coal mines, issued. Certificate of Chaffee R. R., 690.



**CONVENIENCE AND NECESSITY—Continued.****Acquisition of Control—Continued.**

Panhandle & Santa Fe Ry. Co., proposed operation of a line of railroad in Oklahoma and Texas belonging to the North Texas & Santa Fe Ry. Co., which was in operation in interstate commerce prior to the effective date of paragraph (18) of section 1 of the act, found not within the Commission's jurisdiction and certificate is unnecessary. Public Convenience Application of P. & S. F. Ry., 75.

Susquehanna River & Western R. R. Co., proposed acquisition and operation of a narrow-gauge line of railroad extending from Bloomfield Junction to Blain, Perry County, Pa., held not to be within the scope of paragraph (18) of section 1 of the act, as the line was in operation by the applicant prior to the effective date of that paragraph, and such operation has at no time been abandoned. Public Convenience Application of S. R. & W. R. R., 825.

**Extension of Line:**

Alabama, Florida & Gulf R. R. Co., certificate authorizing the construction of lines of railroad between Dothan and Wilson, Ala., and between Greenwood and Marianna, Fla., issued. Line between Greenwood and Marianna will give applicant direct access to southern points, as well as afford transportation facilities to the territory between those points, and the connection which will be afforded at Dothan will reduce present rates to communities on its line by eliminating a two-line circuitous movement. Public Convenience Certificate to A., F. & G. R. R., 53.

Alaska Anthracite R. R. Co., certificate issued for the construction of an extension of its line of railroad in Alaska, for the purpose of furnishing transportation facilities for the output of a coal mine to be opened; and permission granted to retain excess earnings therefrom for a period of not to exceed 10 years. Public Convenience Certificate to A. A. R. R., 840.

Buffalo, Rochester & Pittsburgh Ry. Co., certificate for the construction of a branch line in Indiana County, Pa., issued. Proposed branch line will permit the development of bituminous coal territory which is not served by any railroad and for which there is no outlet, and it appears that there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to B., R. & P. Ry., 1.

Central R. R. Co. of New Jersey, certificate to acquire in part, construct in part, and to operate a branch line of railroad in Cumberland County, N. J., issued. Proposed line will provide improved facilities for the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Public Convenience Certificate to C. R. R. Co. of N. J., 4.

Gulf Ports Terminal Ry. Co., certificate for the construction of an extension, the principal purpose of which is to afford a shorter route between Pensacola, Fla., and Mobile, Ala., denied. Rates are the same to both points; there can be no substantial advantage to shippers from the use of the proposed line; and the shortening of the distance between the two points can not be expected to influence the movement of traffic to any marked degree. Public Convenience Application of G. P. T. Ry., 358.



## CONVENIENCE AND NECESSITY—Continued.

## Extension of Line—Continued.

Illinois Terminal R. R. Co., certificate authorizing the construction of an extension in Madison and St. Clair Counties, Ill., issued. Proposed extension would traverse extensive coal fields between Formosa Junction and O'Fallon; tap other large coal tracts in and around O'Fallon; would furnish a direct one-line haul from O'Fallon to Alton, thereby shortening the distance between these points by approximately 15 miles; would afford coal operators at O'Fallon a direct route to the Chicago and Northwest markets; and would avoid the difficulties now occasioned by movements through the congestions in East St. Louis. Public Convenience Certificate to I. T. & N. Ry., 820.

Jackson & Eastern Ry. Co., certificate authorizing the construction of an extension of its line from Sebastopol to Jackson, Miss., issued. The demand for railroad facilities from the inhabitants of the territory in question is very insistent, and while record fails to afford reasonable assurance that the project will become a permanently successful enterprise since local interests are ready and willing to assume the burden with full knowledge of what the future may hold for the enterprise, it seems proper that they should be permitted to proceed. Public Convenience Certificate to J. & E. Ry., 110.

## New Line Construction:

Aloha Terminal & Ry. Co. (Ltd.), certificate authorizing the construction and operation of a line of railroad in the district of Puna, Island of Kauai, Territory of Hawaii, granted. Proposed line should be of material benefit to the development of the territory which it would serve, and there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to A. T. & Ry. Co. (Ltd.), 198.

Chicago, Milwaukee & Gary Ry. Co., certificate authorizing the construction of a line of railroad from Aurora to Joliet, Ill., issued. Such new line will furnish a connection between applicant's two unconnected segments of main line track, and will eliminate operation by means of trackage agreement with the Elgin, Joliet & Eastern through the congested area of the Chicago switching district, especially in the vicinity of Joliet. Public Convenience Certificate to C. M. & G. Ry., 846.

Flint Belt R. R. Co., certificate authorizing the construction and operation of a line of railroad in Genesee County, Mich., issued. The road is designed particularly to serve the present and future manufacturing industries of Flint, Mich., and to afford a route over which may be detoured the through freight traffic of the Pere Marquette, the main line of which bisects the congested part of the city, involving not only inconvenience and delay but annoyance and danger to citizens. Public Convenience Certificate to F. B. R. R., 292.

**CONVENIENCE AND NECESSITY—Continued.****New Line Construction—Continued.**

Golden Belt R. R., upon supplemental report, conclusions in former report, 67 I. C. C., 370, that public convenience and necessity were not shown to require the construction of a new line of railroad between Great Bend and Hays, Kans., affirmed. Facts do not disclose any practical advantage in hauling grain to Gulf ports instead of to more distant eastern points, or any good reason why existing lines can not take care of the traffic if such advantage exists; and passenger traffic of the character anticipated will not prove of much value from the standpoint of revenues. Public Convenience Application of Golden Belt R. R., 73.

Idaho Central R. R. Co., certificate authorizing the construction of a line of railroad in Twin Falls County, Idaho, and Elko County, Nev., issued. Proposed line will supply an additional outlet for the products of the region served by the Oregon Short Line; a more direct route to San Francisco, Calif., for such products and for passenger traffic; a connection between northern Nevada and southern Idaho; and a route for the shipment of mine products in the Contact district. Public Convenience Certificate to I. C. R. R., 265.

Oklahoma & Arkansas Ry. Co., certificate authorizing the construction of a new line of railroad in Mayes and Delaware Counties, Okla., issued. Primary purpose of the proposed construction is to provide facilities for the marketing of timber products, but applicant proposes also to engage in general transportation as a common carrier. Such construction would aid in the development of a territory that is without adequate railroad transportation facilities. Public Convenience Certificate to O. & A. Ry., 448.

**Terminal Construction:**

New York Central R. R. Co., the Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., and the New York, Chicago & St. Louis R. R. Co.—

Applications for certain certificates under paragraph (18) of section 1 of the act and for certain authority under paragraph (2) in section 5, in connection with the construction in Cleveland, Ohio, of a new through passenger route and passenger terminal by the Cleveland Union Terminals Co., dismissed. Cleveland Passenger Terminal Case, 342.

On rehearing, acquisition of control of the Cleveland Union Terminals Co. by purchase of capital stock, approved and authorized, and certificate issued for the construction and operation of a terminal station and line of railroad constituting the approaches thereto in the City of Cleveland, Ohio. Previous report, 70 I. C. C., 342, reversed. Cleveland Passenger Terminal Case, 659.

**COST OF LABOR.**

Paragraph (a) of section 5 of the standard contract sets forth a rule for measuring the compliance of the director general with the covenant of upkeep by reference to the accounts of the carriers, when kept in accordance with the Commission's requirements; the basic measure is the expenditure for maintenance during an average six months of the test period, adjusted to differences in the cost of labor and materials and in the amount and use of the property, in accordance with the provisions of paragraph (c); and differences in the "cost of labor," as these words are used in paragraph (c), do not include changes in the quality or effectiveness of labor, but only changes in wages. *Maintenance Expenses under Section 209, 115 (123).*

It is not proper in determining amounts payable under the guaranty, under section 209 of the transportation act, to take into consideration differences in cost of labor and materials which would not have affected the accounts if guaranty-period conditions had been substituted for those of the test period, and neither depreciation nor retirement accounts will be adjusted for such differences. In fixing maximum maintenance allowances for the guaranty period, charges representing depreciation and retirements will be computed upon the same bases as those which were used during an average six months of the test period. *Id. (127).*

Announcement of general rule for adjustment of differences in cost of labor and material in establishing the maximum amounts to be included in operating expenses for maintenance of way and structures and for maintenance of equipment for the purposes of the guaranty under section 209 of the transportation act, 1920. *Final Settlement under Section 209, 711 (714-715).*

**CURRENT EXPENSES.**

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in retiring outstanding notes; in paying indebtedness incurred in the maintenance of service; in repairing and replacing the right of way which was very severely damaged by floods; and in creation of a larger working capital to enable it to maintain and improve its service, granted. *Notes of F. V. R. R., 524.*

Waterloo, Cedar Falls & Northern Ry. Co., authority to issue and sell common stock, the proceeds to be used to meet current liabilities, granted. *Securities of W., C. F. & N. Ry., 370.*

**DEBENTURES.**

Georgia R. R. & Banking Co., authority to issue and sell debenture bonds, the proceeds thereof to be used in connection with other funds to pay off and retire a like amount of plain debentures now outstanding, granted. *Debentures of G. R. R. & B. Co., 467.*

**DEFICIT.**

**In General:** Principle that consideration must be given to the business of the carrier as a whole is not to be extended so as to include operating losses of a carrier in the operation of its affiliated companies, since that view would disregard rights of the minority. Nor is the question of profit and loss a matter to be passed upon by the courts alone. Such a construction of paragraph (18) of section 1 would condemn the provision on constitutional grounds, since any refusal on the Commission's part to consider operating losses might very well result in a denial of the application, so that the effect of the paragraph would then be to require the carrier to continue to operate at a loss, and amount to confiscation. *Abandonment of Hawkinsville & Florida Southern Ry.*, 566 (568).

*Alabama & Mississippi R. R. Co. (R. V. Taylor, receiver)*, which sustained a deficit in its railway operating income while under private operation in the Federal control period, found to be a "carrier" subject to section 204 of the transportation act, 1920. Amount payable in reimbursement of deficit sustained during Federal control ascertained, which will be certified in partial liquidation of an amount due to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness, and final settlement made. *Deficit Settlement with Receiver of A. & M. R. R.*, 432.

*Green Bay & Western R. R. Co.*, proposed abandonment of branch line of railroad between Onalaska and La Crosse, Wis., found not justified. It has been uniformly held that the cessation of a particular service is not to be justified merely because it results in a loss, considered by itself. Consideration must be given to the business of the system as a whole. *Public Convenience Application of G. B. & W. R. R.*, 251.

The following roads which sustained deficits in railway operating income while under private operation in the Federal control period found to be "carriers" subject to section 204 of the transportation act, 1920. Amounts payable in reimbursement of deficits sustained during Federal control ascertained from which there is deductible a certain amount as due to the President on account of traffic balances and other indebtedness, and final settlement made:

*Marietta & Vincent R. R. Co.*, 488.

*Middle Tennessee R. R. Co.*, 177.

**DEPRECIATION.**

It is not proper in determining amounts payable under the guaranty, under section 209 of the transportation act, to take into consideration differences in cost of labor and materials which would not have affected the account if guaranty-period conditions had been substituted for those of the test period, and neither depreciation nor retirement accounts will be adjusted for such differences. In fixing maximum maintenance allowances for the guaranty period, charges representing depreciation and retirements will be computed upon the same basis as those which were used during an average six months of the test period. *Maintenance Expenses under Section 209*, 115 (127).

**DESPATCH COMPANIES.**

**In General:** Contention that the Chicago, New York & Boston Refrigerator Co. is a carrier by railroad within the meaning of section 209 of the transportation act, 1920, because engaged in the carriage of freight over or by means of railroads and because it is engaged in handling a particular kind of traffic for the Grand Trunk Ry.; and that the term "carrier" in section 209 is as broad in its meaning as the same term in section 1 of the Federal control act; and that therefore section 209 is to be construed as to entitle every carrier which was under Federal control to a guaranty payment, not sustained. Guaranty Claim of C., N. Y. & B. Refrigerator Co., 575 (578).

Chicago, New York & Boston Refrigerator Co. found not to be subject to the guaranty provisions of section 209 of the transportation act, 1920. It is an equipment-owning company which does not own or operate motive power, roadbed, or tracks; does not collect from shippers charges for its services; and does not control its cars while in trains. It leases its cars to railroads, depending for its revenues upon car hire and commissions. Guaranty Claim of C., N. Y. & B. Refrigerator Co., 575.

**DIRECTOR GENERAL.** See **FEDERAL CONTROL.**

**DIVIDENDS.**

**In General:** Carrier sought authority to issue stock dividends from time to time, as further expenditures shall be made from income for additions and betterments, thus capitalizing such expenditures. *Held:* Authority therefor should be requested when such expenditures have been made. Securities Application of D. & T. S. L. R. R., 322 (328).

Detroit & Toledo Shore Line R. R. Co., proposed issues of capital stock as dividends held not compatible with the public interest and application denied. Evidence fails to establish satisfactorily that the value of the road and equipment, plus a proper sum for working capital and for materials and supplies, exceeds or equals the present capitalization. Securities Application of D. & T. S. L. R. R., 322.

**EARNINGS.**

Alaska Anthracite R. R. Co., certificate of public convenience and necessity issued for the construction of an extension of its line of railroad in Alaska, for the purpose of furnishing transportation facilities for the output of a coal mine to be opened, and permission granted to retain excess earnings therefrom for not more than 10 years. Public Convenience Certificate to A. A. R. R., 840.

Buffalo, Rochester & Pittsburgh Ry. Co., certificate of public convenience and necessity for the construction of a branch line in Indiana County, Pa., issued, and applicant permitted to retain, for a period of not more than 10 years from the date the branch is completed and put in operation, all or any part of its earnings derived from such new construction in excess of the amount otherwise provided in section 15a of the act for such disposition as it lawfully may make of the same. Public Convenience Certificate to B., R. & P. Ry., 1.

Chicago, Milwaukee & Gary Ry. Co., certificate of public convenience and necessity authorizing the construction of a line of railroad from Aurora to Joliet, Ill., issued, and since the development of new business is likely to require some little time and the cost of construction will be considerable, permission granted to retain excess earnings derived therefrom for a period of not to exceed 10 years. Public Convenience Certificate to C., M. & G. Ry., 846.

**EARNINGS—Continued.**

**Flint Belt R. R. Co.**, certificate of public convenience and necessity authorizing the construction and operation of a line of railroad in Genesee County, Mich., issued, and because of the probable cost of construction, applicant permitted to retain, for a period of not more than 10 years from the date said line is completed and placed in operation, all of its earnings derived from the proposed new construction in excess of the amount otherwise provided in section 15a of the act for such disposition as it lawfully may make of the same. Public Convenience Certificate to F. B. R. R., 292 (294).

**Jackson & Eastern Ry. Co.**, certificate of convenience and necessity authorizing the construction of an extension from Sebastopol to Jackson, Miss., issued, and due to the uncertainty of adequate return during the early years of operation, such carrier permitted to retain, for a period of not to exceed 10 years, all of the earnings derived from such extension. Public Convenience Certificate to J. & E. Ry., 110.

**Oklahoma & Arkansas Ry. Co.**, certificate of public convenience and necessity authorizing the construction of a new line of railroad in Mayes and Delaware Counties, Okla., issued, and applicant permitted to retain for a period not to exceed 10 years from the date the road is completed and put in operation, all of its earnings derived from operation of such newly constructed line in excess of the amount otherwise provided in section 15a of the act for such disposition as it lawfully may make of the same. Public Convenience Certificate to O. & A. Ry., 448.

**ENGINES.** *See* **LOCOMOTIVES.**

**EQUIPMENT.** *See also* **LOCOMOTIVES.**

**Akron, Canton & Youngstown Ry. Co.**, application for loan to aid in providing, granted. Loan to A., C. & Y. Ry., 216.

**Alabama, Tennessee & Northern R. R. Corp.:**

Application for a loan to aid in providing, granted. Loan to A., T. & N. R. R., 611.

Authority to issue equipment-trust notes in connection with the lease of certain equipment, and to pledge them as part security for a loan under section 210 of the transportation act, 1920, granted. Securities of A., T. & N. R. R., 675.

**Chicago & Eastern Illinois R. R. Co.**, application for a loan to aid in providing new equipment and making additions and betterments to existing equipment, granted. Loan to C. & E. I. R. R., 558.

**Chicago Great Western R. R. Co.**, upon supplemental report, authority to divert a portion of the proceeds of the loan authorized in 65 I. C. C., 486 for additions and betterments to way and structures to additions and betterments to equipment, granted. Loan to C. G. W. R. R., 180.

**Chicago, Rock Island & Pacific Ry. Co.**, upon supplemental report, that portion of a loan from the United States for the purchase of gondola cars approved in 67 I. C. C., 569, modified so as to include the purchase of certain mikado locomotives. Loan to C., R. I. & P. Ry. Co., 446.

**Cowlitz, Chehalis & Cascade Ry. Co.**, application for a loan to aid in providing one new combination passenger, express, and mail gasoline-motor car, granted. Loan to C., C. & C. Ry., 580.

**Cumberland & Manchester R. R. Co.**, authority to assume obligation or liability in respect of the payment of unpaid principal and interest of three promissory notes issued in connection with the purchase of certain equipment, granted. Securities, etc., of C. & M. R. R., 9.

**EQUIPMENT—Continued.**

**Erie R. R. Co.**, upon supplemental report, former reports 65 I. C. C., 134 and 317, additional loan to aid in providing additions and betterments to existing equipment, granted. Loan to E. R. R., 361.

**Great Northern Ry. Co.:**

Application for a loan to aid in providing, granted. Loan to G. N. Ry., 232.

Authority to sell equipment gold notes in connection with the procurement of refrigerator cars, granted. Equipment Notes of G. N. Ry., 381.

**Huntingdon & Broad Top Mountain R. R. & Coal Co.**, authority to assume obligation and liability in respect of equipment-trust certificates to be issued under the Huntingdon & Broad Top rolling-equipment trust in connection with the procurement of locomotives and all-steel passenger-train cars, granted. H. & B. T. Rolling-Equipment Trust, 173.

**Maine Central R. R. Co.**, upon supplemental report, former report 65 I. C. C., 203, additional loan to aid in the acquisition of, granted. Applicant is not now in such financial condition that it can procure a loan from bankers or from any other source, using its bonds as security, at a reasonable rate of interest. Loan to M. C. R. R., 366.

**New York, New Haven & Hartford R. R. Co.:**

Application for a loan to aid in providing additions and betterments to existing equipment, granted. Loan to N. Y., N. H. & H. R. R., 399.

Upon supplemental report, authority to sell equipment-trust notes, the proceeds to be used toward payment of promissory notes, the issue of which has heretofore been authorized in 65 I. C. C., 289, and for which the equipment-trust notes have been pledged as collateral security, granted. Notes of N. Y., N. H. & H. R. R., 540.

Upon supplemental application, amount of loan heretofore granted in 65 I. C. C., 376, for acquisition of equipment, reduced. Loan to N. Y., N. H. & H. R. R., 543.

**San Antonio & Aransas Pass Ry. Co.**, authority to execute and deliver, at par, to the General Equipment Co. (Inc.), equipment notes in connection with the procurement of certain equipment, granted. Equipment Notes of S. A. & A. P. Ry., 319.

**Sewell Valley R. R. Co.**, authority to issue first-mortgage gold bonds for the purpose of paying indebtedness in open account incurred in the purchase of coal cars, and to reimburse its treasury in part for money expended in the purchase of a locomotive, granted. Bonds of S. V. R. R., 765.

**Waterloo, Cedar Falls & Northern Ry. Co.**, authority to issue lease warrants in connection with the procurement of equipment, granted. Securities of W., C. F. & N. Ry., 370.

**EQUIPMENT NOTES.** See NOTES.



**EQUIPMENT TRUST CERTIFICATES.**

Chicago, Rock Island & Pacific Ry. Co., authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury interests and equities in certain bonds to secure the repayment of the loan, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corp.'s equipment trust, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of C., R. I. & P. Ry., 61.

Cumberland & Manchester R. R. Co., authority to assume obligation or liability in respect of equipment-trust certificates by entering into an equipment-trust agreement under which the certificates will be issued by the Union Trust Co. of Pittsburgh; by indorsing upon each certificate its guaranty of the payment of the principal and dividends thereof; and by entering into a lease of the trust equipment, thereby agreeing to pay rent sufficient to pay the principal and dividends of such certificates, granted. Securities, etc., of C. & M. R. R., 9.

Huntingdon & Broad Top Mountain R. R. & Coal Co., authority to assume obligation and liability in respect of equipment-trust certificates to be issued under the Huntingdon & Broad Top rolling-equipment trust in connection with the procurement of locomotives and all-steel passenger-train cars, granted. H. & B. T. Rolling-Equipment Trust, 173.

Minneapolis & St. Louis R. R. Co., authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury refunding and extension mortgage gold bonds, and interests and equities in certain other bonds to secure the repayment of the loan, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustees under the Service Corp.'s equipment-trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of M. & St. L. R. R., 67.

Wheeling & Lake Erie Ry. Co., authority to issue rent notes under a contract to be entered into pursuant to National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States; to pledge with the Secretary of the Treasury refunding mortgage bonds, and interests and equities in other bonds to secure the repayment of a loan to the Service Corporation, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to transfer, assign, and set over unto the Bankers Trust Co., trustee under the Service Corp.'s equipment-trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein, granted. Notes, etc., of W. & L. E. Ry., 44.

**EXCESS EARNINGS. See EARNINGS.****EXCHANGE OF SECURITIES.**

**Ann Arbor R. R. Co.,** authority to issue 6 per cent bonds under its improvement and extension mortgage as amended; part thereof to be pledged in substitution for a like amount of 5 per cent bonds issued under its original improvement and extension mortgage, and part in exchange for a like amount of 5 per cent bonds now held in its treasury, granted. Bonds of A. A. R. R., 36.

**Bullfrog Goldfield R. R. Co.,** authority to deliver new first-mortgage 5 per cent bonds in exchange for a like aggregate amount of first-mortgage 6 per cent bonds and second-mortgage income bonds now outstanding, and new first-mortgage 5 per cent bonds, at par, in partial satisfaction of unpaid interest accrued on outstanding first-mortgage bonds, granted. Bonds of B. G. R. R., 354.

**Chicago, Indianapolis & Louisville Ry. Co.,** authority to issue first and general mortgage gold bonds in exchange for an equal amount of other bonds; to sell part of said bonds for purpose of reimbursing its treasury for expenditures for additions and betterments; and to pledge and repledge, from time to time, the remainder as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act, without the Commission's authorization therefor having first been obtained, granted. Bonds of C., I. & L. Ry., 803.

**El Paso & Southwestern Co.,** authority to issue capital stock without par value, in exchange for and retirement of all capital stock now outstanding, granted. Stock of E. P. & S. W. Co., 208.

**Fort Smith & Western Ry. Co.,** authority to issue common stock without par value, and first and second mortgage bonds, which securities applicant proposes to exchange for first-mortgage bonds of the old Ft. Smith & Western R. R. Co., and to use the last-mentioned bonds for the purpose of acquiring at a mortgage-foreclosure sale all of the property, assets, and franchises of the old company, granted. Securities of Ft. S. & W. Ry., 777.

**Leavenworth & Topeka R. R. Co.,** authority to issue common capital stock to the Leavenworth & Topeka R. R. Aid Benefit Districts of Leavenworth and Jefferson Counties, Kans., in exchange for a like amount of aid bonds issued to the applicant by those districts, granted. Stock of L. & T. R. R., 632.

**Manchester & Oneida Ry. Co.,** authority to issue new first-mortgage 6 per cent bonds, to be exchanged, par for par, for a like aggregate amount of first-mortgage 5 per cent bonds now outstanding, granted. Bonds of M. & O. Ry., 672.

**Milledgeville Ry. Co.,** authority to issue common capital stock and to exchange same for a like amount of applicant's outstanding first-mortgage bonds, granted. Proposed issue and substitution of stock for bonds would result in no net increase in capitalization and would relieve applicant from interest charges. Stock of Milledgeville Ry., 476.

**New York Central R. R. Co.,** authority to issue 4 per cent consolidation mortgage bonds in exchange, par for par, for a like amount of New York Central & Hudson River R. R. Co.'s 3½ per cent Lake Shore collateral bonds, granted. Bonds of N. Y. C. R. R., 282.

**EXCHANGE OF SECURITIES—Continued.**

Valley & Siletz R. R. Co., authority to issue capital stock, to be exchanged for outstanding notes and interest, granted. Effect of the transaction will be the substitution of capital stock for interest-bearing demand notes, a reduction in the annual interest charges, the elimination of the debit balance, and the reduction of interest unpaid. Stock of V. & S. R. R., 556.

**EXPERIMENT.**

Atlanta & St. Andrews Bay Ry. Co., certificate of public convenience and necessity authorizing the abandonment of a branch line of railroad between Panama City and St. Andrews, Fla., held in abeyance pending determination of result of discontinuance of operation for an experimental period. Operation of the branch is attended by serious financial losses but the needs of the community of St. Andrews are such that the public interest will suffer if the abandonment takes place. Public Convenience Application of A. & S. A. B. Ry., 313.

**EXTENSION OF DATE OF MATURITY.** See **MATURITIES.**

**EXTENSION OF LINE.**

Alabama, Florida & Gulf R. R. Co.:

Certificate of convenience and necessity authorizing the construction of lines of railroad between Dothan and Wilson, Ala., and between Greenwood and Marianna, Fla., issued. Line between Greenwood and Marianna will give applicant direct access to southern points, as well as afford transportation facilities to the territory between those points, and the connection which will be afforded at Dothan will reduce present rates to communities on its line by eliminating a two-line circuitous movement. Public Convenience Certificate to A., F. & G. R. R., 53.

Authority to issue first-mortgage sinking-fund gold bonds, the proceeds to be used in constructing extensions heretofore authorized in 70 I. C. C., 53, granted. Bonds of A., F. & G. R. R., 238.

Alaska Anthracite R. R. Co., certificate of public convenience and necessity issued for the construction of an extension of its line of railroad in Alaska, for the purpose of furnishing transportation facilities for the output of a coal mine to be opened. Public Convenience Certificate to A. A. R. R., 840.

Buffalo, Rochester & Pittsburgh Ry. Co., certificate of public convenience and necessity for the construction of a branch line in Indiana County, Pa., issued, and permission to retain excess earnings granted. Proposed branch line will permit the development of bituminous coal territory which is not served by any railroad and for which, at the present time, there is no outlet, and it appears that there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to B., R. & P. Ry., 1.

Central R. R. Co. of New Jersey, certificate of public convenience and necessity to acquire in part, construct in part, and to operate a branch line of railroad in Cumberland County, N. J., issued. Proposed line will provide improved facilities for the rapid movement of vegetables and fruits from the territory to be served to the New York and New England markets. Public Convenience Certificate to C. R. R. Co., of N. J., 4.

**EXTENSION OF LINE—Continued.**

Gulf Ports Terminal Ry. Co., certificate of public convenience and necessity for the construction of an extension, the principal purpose of which is to afford a shorter route between Pensacola, Fla., and Mobile, Ala., denied. Rates are the same to both points; there can be no substantial advantage to shippers from the use of the proposed line; and the shortening of the distance between the two points can not be expected to influence the movement of traffic to any marked degree. Public Convenience Application of G. P. T. Ry., 358.

Illinois Terminal R. R. Co., certificate of public convenience and necessity authorizing the construction of an extension in Madison and St. Clair Counties, Ill., issued. Proposed extension would traverse extensive coal fields between Formosa Junction and O'Fallon and tap other large coal tracts in and around O'Fallon; would furnish a direct one-line haul from O'Fallon to Alton, thereby shortening the distance between these points by approximately 15 miles; would afford coal operators at O'Fallon a direct route to the Chicago and northwest markets; and, would avoid the difficulties now occasioned by movements through the terminals in East St. Louis. Public Convenience Certificate to I. T. R. R., 820.

Interstate R. R. Co., authority granted to issue and sell capital stock, the proceeds thereof to be used for the purchase of property for, and the construction of, an extension heretofore approved and authorized in 67 I. C. C., 141. Stock of Interstate R. R., 7.

Jackson & Eastern Ry. Co.:

Certificate of public convenience and necessity authorizing the construction of an extension of its line from Sebastopol to Jackson, Miss., issued. The demand for railroad facilities from the inhabitants of the territory in question is very insistent and while record fails to afford reasonable assurance that the project will become a permanently successful enterprise, since local interests are ready and willing to assume the burden with full knowledge of what the future may hold for the enterprise, it seems proper that they should be permitted to do so. Public Convenience Certificate to J. & E. Ry., 110.

Application for a loan to aid in the extension of its line of railroad denied as the prospective earning power and security offered are not such as to afford reasonable assurance of ability to repay within the time fixed therefor and reasonable protection to the United States. Loan to J. & E. Ry., 236.

**FEDERAL CONTROL.**

In General:

The guaranty under section 209 of the transportation act is wholly independent of any damages which carriers may have suffered by reason of the temporary taking of their property during the period of Federal control. For all such damages the Government must render just compensation; and by their acceptance of the provisions of section 209 the carriers have in no way surrendered or abated any claims arising out of Federal operation. Maintenance Expenses under Section 209, 115 (116).

**FEDERAL CONTROL—Continued.****In General—Continued.**

The guaranty under section 209 of the transportation act was not founded upon a legal obligation, but upon the thought that in fairness it was the duty of the Government to protect the income of the carriers, following the termination of Federal control, until such time as higher rates could be made effective under the provisions of section 15a of the interstate commerce act. *Id.* (116–117). Section 1 of the Federal control act authorized the President to agree with and to guarantee to each carrier that it should receive as just compensation during Federal control an annual sum “*not exceeding* a sum equivalent as nearly as may be to its average annual railway operating income for the three years ended June 30, 1917.” This fixed the *maximum* compensation, known as the “standard return,” which the President might voluntarily agree to pay. It did not preclude him from offering less or the carriers from seeking more, and provision was made for reference, in default of agreement, to a board of referees and ultimately to the Court of Claims. *Id.* (117–118).

**FINAL SETTLEMENT.****In General:**

December 31, 1921, fixed as the date as of which all accounts pertaining to the guaranty period shall be considered closed for the purpose of computing the guaranty under section 209 of the transportation act. Final Settlement under Section 209, 711 (712).

For the purpose of the guaranty under section 209 of the transportation act, 1920, charges to operating expenses for maintenance will be limited to those applying to work done between March 1 and August 31, 1920, inclusive, and to charges accrued or equalized in accordance with the Commission's accounting rules. No charges for deferred maintenance will be considered. *Id.* (712–713).

Estimates made by the Commission and agreed to by the carrier under the provisions of paragraph (b) of section 212 of the transportation act, 1920, will be considered as actual expenditures and shall be so treated in the computation of operating expenses for the guaranty period. *Id.* (713).

In the computation of railway operating income or any deficit therein for the guaranty period for the purposes of section 209 of the transportation act, the Commission shall treat the provisions of subdivision (f) of that section as provisions limiting consideration to the amounts actually charged on the carrier's books of account under the accounting rules prescribed by the Commission pursuant to section 20 of the interstate commerce act, and shall not for the purpose of the guaranty make or permit any increase or addition to charges actually on the books in accordance with the accounting rules. *Id.* (713–714).

Estimates of the net effect of deferred debit and credit items made by the Commission and agreed to by carriers under the authority of paragraph (b) of section 212 of the transportation act, 1920, will be considered in computing the guaranty under section 209. *Id.* (714).

**FINAL SETTLEMENT—Continued.****In General—Continued.**

All carriers which accepted the provisions of section 209 of the transportation act, 1920, required to file on or before March 1, 1922, final statements of amounts due to them or to the United States thereunder. No further partial payments will be certified until the information necessary for a final settlement is at hand. Forms for rendition of statements prescribed. *Id.* (714).

Announcement of general rule for adjustment of differences in cost of labor and material in establishing the maximum amounts to be included in operating expenses for maintenance of way and structures and for maintenance of equipment for the purposes of the guaranty under section 209 of the transportation act, 1920. *Id.* (714-715).

Accounting procedure to be observed by all carriers accepting the provisions of section 209 of the transportation act, 1920, for the purpose of the guaranty under that section. Appendix A. *Id.* (717).

Forms for final return of amounts due to or from the United States under the provisions of section 209 of the transportation act, 1920, prescribed. *Id.* (719-748).

**Alabama & Mississippi R. R. Co. (R. V. Taylor, receiver) :**

Which sustained a deficit in its railway operating income while under private operation in the Federal control period, found to be a "carrier" subject to section 204 of the transportation act, 1920. Amount payable in reimbursement of deficit sustained during Federal control ascertained, which will be certified in partial liquidation of an amount due to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness, and final settlement made. Deficit Settlement with Receiver of A. & M. R. R., 432.

Which was under Federal control during the entire period of Federal control from January 1, 1918, to February 29, 1920, inclusive, found to be a "carrier" within the meaning of paragraph (a) of section 209 of the transportation act, 1920. Amount necessary to make good the guaranty under that section ascertained and final settlement made. Guaranty Settlement with Receiver of A. & M. R. R., 435.

The following roads which sustained deficits in railway operating income while under private operation in the Federal control period found to be "carriers" subject to section 204 of the transportation act, 1920. Amounts payable in reimbursement of deficits sustained during Federal control ascertained from which there is deductible a certain amount as due to the President on account of traffic balances and other indebtedness, and final settlement made:

Marietta & Vincent R. R. Co., 488.

Middle Tennessee R. R. Co., 177.

**FIRST MORTGAGE BONDS. See BONDS.**

**FLOOD.**

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in repairing and replacing the right of way which was very severely damaged by floods, granted. Notes of Federal Valley R. R., 524.



GUARANTOR BY INDORSEMENT. *See* OBLIGATIONS OR LIABILITIES.  
GUARANTY.

**In General:**

The guaranty under section 209 of the transportation act is wholly independent of any damages which carriers may have suffered by reason of the temporary taking of their property during the period of Federal control. For all such damages the Government must render just compensation; and by their acceptance of the provisions of section 209 the carriers have in no way surrendered or abated any claims arising out of Federal operation. *Maintenance Expenses* under Section 209, 115 (116).

The guaranty under section 209 of the transportation act was not founded upon a legal obligation, but upon the thought that in fairness it was the duty of the Government to protect the income of the carriers, following the termination of Federal control, until such time as higher rates could be made effective under the provisions of section 15a of the interstate commerce act. *Id.* (116-117).

The danger of the guaranty, as provided under section 209 of the transportation act, at a time when expenditures were wholly within the control of the private managements, was that the carriers might utilize the opportunity to profit unduly at the expenses of the public treasury. The danger was particularly acute in the case of maintenance, and for this reason it was plainly desirable to set some limit upon the sums which might be allowed for this purpose in computing amounts payable under the guaranty. Paragraph (3) of subdivision (f) of section 209 was the means of accomplishing this end. *Id.* (117).

Section 1 of the Federal control act authorized the President to agree with and to guarantee to each carrier that it should receive as just compensation during Federal control an annual sum "*not exceeding* a sum equivalent as nearly as may be to its average annual railway operating income for the three years ended June 30, 1917." This fixed the *maximum* compensation, known as the "standard return," which the President might voluntarily agree to pay. It did not preclude him from offering less, or the carriers from seeking more; and provision was made for reference, in default of agreement, to a board of referees and ultimately to the Court of Claims. *Id.* (117-118).

The "standard return," fixed as the maximum which might voluntarily be offered, was based on the results from operation in the so-called test period of three years ended June 30, 1917, these being the most prosperous three consecutive years in the history of the carriers. It was therefore a liberal standard of compensation for the war use of property at a time when the country was enduring grievous burdens. *Id.* (118).



**GUARANTY—Continued.****In General—Continued.**

Paragraph (a) of section 5 of the standard contract sets forth a rule for measuring the compliance of the director general with the covenant of upkeep by reference to the accounts of the carriers, when kept in accordance with the Commission's requirements; the basic measure is the expenditure for maintenance during an average six months of the test period, adjusted to differences in the cost of labor and materials and in the amount and use of the property, in accordance with the provisions of paragraph (c); and differences in the "cost of labor," as these words are used in paragraph (c), do not include changes in the quality or effectiveness of labor but only changes in wages. *Id.* (123).

It is not proper in determining amounts payable under the guaranty, under section 209 of the transportation act, to take into consideration differences in cost of labor and materials which would not have affected the account if guaranty-period conditions had been substituted for those of the test period, and neither depreciation nor retirement accounts will be adjusted for such differences. In fixing maximum maintenance allowances for the guaranty period, charges representing depreciation and retirements will be computed upon the same bases as those which were used during an average six months of the test period. *Id.* (127).

Contention that the Chicago, New York & Boston Refrigerator Co. is a carrier by railroad within the meaning of section 209 of the transportation act, 1920, because engaged in the carriage of freight over or by means of railroads and because it is engaged in handling a particular kind of traffic for the Grand Trunk Ry.; and that the term "carrier" in section 209 is as broad in its meaning as the same term in section 1 of the Federal control act; and that, therefore, section 209 is to be construed as to entitle every carrier which was under Federal control to a guaranty payment, not sustained. *Guaranty Claim of C., N. Y. & B. Refrigerator Co.*, 575 (578).

The intention of Congress was to be as specific as possible in designating those carriers for whose benefit the guaranty provisions of section 209 of the transportation act, 1920, should operate. The fact that the definition of the term "carrier" was made precludes the view that the section was intended to apply generally to all agencies of transportation over which in the time of war Federal control was assumed; and the fact that it limits the meaning of "carrier" to (1) "a carrier by railroad or partly by railroad and partly by water," and (2) "a sleeping-car company," deprives the Commission of authority to certify a payment under the guaranty to any claimant which can not bring itself clearly within one of these terms. *Id.* (578).

December 31, 1921, fixed as the date as of which all accounts pertaining to the guaranty period shall be considered closed for the purpose of computing the guaranty under section 209 of the transportation act. *Final Settlement under Section 200*, 711 (712).

**GUARANTY—Continued.****In General—Continued.**

For the purpose of the guaranty under section 209 of the transportation act, 1920, charges to operating expenses for maintenance will be limited to those applying to work done between March 1 and August 31, 1920, inclusive, and to charges accrued or equalized in accordance with the Commission's accounting rules. No charges for deferred maintenance will be considered. Id. (712-713).

Estimates made by the Commission and agreed to by the carrier under the provisions of paragraph (b) of section 212 of the transportation act, 1920, will be considered as actual expenditures and shall be so treated in the computation of operating expenses for the guaranty period. Id. (713).

In the computation of railway operating income or any deficit therein for the guaranty period for the purposes of section 209 of the transportation act, the Commission shall treat the provisions of subdivision (f) of that section as provisions limiting consideration to the amounts actually charged on the carrier's books of account under the accounting rules prescribed by the Commission pursuant to section 20 of the interstate commerce act, and shall not for the purpose of the guaranty make or permit any increase or addition to charges actually on the books in accordance with the accounting rules. Id. (713-714).

Estimates of the net effect of deferred debit and credit items made by the Commission and agreed to by carriers under the authority of paragraph (b) of section 212 of the transportation act, 1920, will be considered in computing the guaranty under section 209. Id. (714.)

All carriers which accepted the provisions of section 209 of the transportation act, 1920, required to file on or before March 1, 1922, final statements of amounts due to them or to the United States thereunder. No further partial payments will be certified until the information necessary for a final settlement is at hand. Forms for rendition of statements prescribed. Id. (714).

Announcement of general rule for adjustment of differences in cost of labor and material in establishing the maximum amounts to be included in operating expenses for the maintenance of way and structures and for maintenance of equipment for the purposes of the guaranty under section 209 of the transportation act, 1920. Id. (714-715).

Accounting procedure to be observed by all carriers accepting the provisions of section 209 of the transportation act, 1920, for the purpose of the guaranty under that section. Appendix A. Id. (717).

Forms for final return of amounts due to or from the United States under the provisions of section 209 of the transportation act, 1920, prescribed. Id. (719-748).

Alabama & Mississippi R. R. Co. (R. V. Taylor, receiver), which was under Federal control during the entire period of Federal control from January 1, 1918, to February 29, 1920, inclusive, found to be a "carrier" within the meaning of paragraph (a) of section 209 of the transportation act, 1920. Amount necessary to make good the guaranty under that section ascertained and final settlement made. Guaranty Settlement with Receiver of A. & M. R. R., 435.

**GUARANTY—Continued.**

Chicago, New York & Boston Refrigerator Co. found not to be subject to the guaranty provisions of section 209 of the transportation act, 1920. It is an equipment-owning company which does not own or operate motive power, roadbed, or tracks; does not collect from shippers charges for its services; and does not control its cars while in trains. It leases its cars to railroads, depending for its revenues upon car hire and commissions. Guaranty Claim of C., N. Y. & B. Refrigerator Co., 575.

Ettrick & Northern R. R. Co. held not to be subject to the guaranty provisions of section 209 of the transportation act, 1920. Property was not operated prior to January 20, 1919, and it therefore had no income or deficit during the test period of three years ending June 30, 1917. As the carrier operated its own property from the time it was opened for operation to the end of the Federal control period, it had no contract for compensation from the Government, nor was any estimate of compensation made by the President. Guaranty Claim of E. & N. R. R., 483.

**HAWAII.**

Ahukini Terminal & Ry. Co. (Ltd.):

Certificate of public convenience and necessity authorizing the construction and operation of a line of railroad in the district of Puna, Island of Kauai, Territory of Hawaii, granted. Proposed line should be of material benefit to the development of the territory which it would serve, and there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to A. T. & Ry. Co. (Ltd.), 198.

Authority to issue and sell capital stock, the proceeds thereof to be used in constructing and equipping a railroad on the Island of Kauai, Territory of Hawaii, pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 198, granted. Stock of A. T. & Ry. Co., 509.

**HURRICANE.**

Aransas Harbor Terminal Ry., upon supplemental application, original finding modified and loan to aid in providing certain additions and betterments to way and structures included in a program of reconstruction of applicant's main line, destroyed by a West Indian hurricane, reduced. Certificate in former report, 65 I. C. C., 20, canceled. Loan to A. H. T. Ry., 203.

**IMPROVEMENTS.** See ADDITIONS AND BETTERMENTS.

**INCOME BONDS.** See BONDS.

**INDEMNITY BONDS.**

New York, New Haven & Hartford R. R. Co., application for authority to execute a certain indemnity bond to the present stockholders of the Fruit Growers Express Co., dismissed for want of jurisdiction. Indemnity Bond of N. Y., N. H. & H. R. R., 517.

**INEFFICIENCY OF LABOR.**

Paragraph (a) of section 5 of the standard contract sets forth a rule for measuring the compliance of the director general with the covenant of upkeep by reference to the accounts of the carriers, when kept in accordance with the Commission's requirements; the basic measure is the expenditure for maintenance during an average six months of the test period, adjusted to differences in the cost of labor and materials and in the amount and use of the property, in accordance with the provisions of paragraph (c); and differences in the "cost of labor," as these words are used in paragraph (c), do not include changes in the quality or effectiveness of labor, but only changes in wages. Maintenance Expenses under Section 209, 115 (123).

**INTEREST.**

Bullfrog Goldfield R. R. Co., authority to deliver new first-mortgage 5 per cent bonds in exchange, par for par, for a like aggregate amount of first-mortgage 6 per cent bonds and second-mortgage income bonds now outstanding; and new first-mortgage 5 per cent bonds, at par, in partial satisfaction of unpaid interest accrued on outstanding first-mortgage bonds, granted. Bonds of B. G. R. R., 354.

Lancaster & Chester Ry. Co., authority to enter into an agreement with the holder of first-mortgage gold bonds for the extension of the maturity date, and to increase the rate of interest thereon from 5 to 7 per cent per annum, granted. Bonds of L. & C. Ry., 280.

Manchester & Oneida Ry. Co., authority to issue new first-mortgage bonds at an increased rate of interest, to be exchanged, par for par, for a like aggregate amount of first-mortgage bonds now outstanding, granted. Bonds of M. & O. Ry., 672.

**INVESTMENT ACCOUNT.**

Improper to authorize the purchase of one carrier by another at any sum in excess of the actual cost of building the line or to permit the purchasing carrier to write into its investment accounts any sum in excess of such cost. Acquisition of Control of B. & C. M. Ry. by N. P. Ry., 328 (329).

**ISSUANCE OF SECURITIES. See SECURITIES.****JURISDICTION.****Abandonment:**

Objection to Commission's jurisdiction to permit abandonment on grounds that petitioning railroad is an intrastate railroad not subject to paragraphs (18) to (22) of section 1 of the act; that if such paragraphs are construed as applying to intrastate railroads they are unconstitutional; that only reason assigned, i. e., that the railroad has not been and can not be operated except at a loss does not relate to present or future public convenience and necessity, which is the only ground upon which the Commission can permit the abandonment, and that an inquiry into the reason assigned is beyond the Commission's jurisdiction. *Held*: Commission has jurisdiction to pass upon application as shipments originate on applicant's line destined to points outside the State. Public Convenience Certificate to D. & N. M. Ry., 184 (185).

**JURISDICTION—Continued.****Acquisition of Control:****Denver & Rio Grande Western R. R. Co.—**

Proposed acquisition and operation of the properties of the Denver & Rio Grande R. R. Co., held not within the scope of paragraph (18) of section 1 of the act because such property was in existence and was operated in interstate commerce prior to the effective date of that paragraph. Stock of D. & R. G. W. R. R., 102.

Proposes acquisition of all the outstanding stock by the Western Pacific R. R. Corp., held not to be within the scope of paragraph (2) of section 5 of the act, as the Western Pacific is not a carrier engaged in the transportation of passengers or property subject to the act; and such proposed acquisition does not constitute a consolidation of two or more carriers into one corporation, management, and operation of properties theretofore in separate ownership, management, and operation within the meaning of paragraph (6) of that section. Id. (102).

Panhandle & Santa Fe Ry. Co., proposed operation of a line of railroad in Oklahoma and Texas belonging to the North Texas & Santa Fe Ry. Co., which was in operation in interstate commerce prior to the effective date of paragraph (18) of section 1 of the act, found not within the Commission's jurisdiction and certificate of public convenience and necessity is unnecessary. Public Convenience Application of P. & S. F. Ry., 75.

Susquehanna River & Western R. R. Co., proposed acquisition and operation of a narrow-gauge line of railroad extending from Bloomfield Junction to Blain, Perry County, Pa., held not to be within the scope of paragraph (18) of section 1 of the act, as the line was in operation by the applicant prior to the effective date of that paragraph, and such operation has at no time been abandoned. Public Convenience Application of S. R. & W. R. R., 825.

**Consolidations:**

It is definitely and unmistakably provided under paragraph (1) of section 5 of the act that an agreement for the pooling of freights or the division of earnings shall be unlawful unless and until it receives the specific approval of the Commission. Securities Application of P. & W. V. Ry., 682 (685).

In the development of the transportation act, 1920, as a constructive measure for the solution of the railroad problem, great importance was attached by Congress to the ultimate consolidation of the carriers into a limited number of great systems. It was the intent of Congress that complete control over the situation should be in the Commission's hands, so that the working out of a constructive policy might be safeguarded in every possible way, and so that consolidations or other union of interest might not be effected without the consent of the Commission. Id. (687-688).

**JURISDICTION—Continued.**

**Contracts:** Proposed execution of a contract for purchase of the Lansing Connecting R. R. by the Grand Trunk Western Ry. Co. held not to be within the provisions of section 20a of the act. Applicant does not propose to issue any notes covering deferred payments, and is not to assume obligation or liability as lessor, lessee, guarantor, indorser, or otherwise in respect of securities of the Lansing. The only "security" for the issue of which authority is sought is the final agreement into which the applicant contemplates entering with the Lansing and the Commission has no jurisdiction over such contract or agreement. Control of G. T. W. Ry. with L. C. R. R., 554.

**Despatch Companies:** Chicago, New York & Boston Refrigerator Co., found not to be subject to the guaranty provisions of section 209 of the transportation act, 1920. It is an equipment-owning company which does not own or operate motive power, roadbed, or tracks; does not collect from shippers charges for its services; and does not control its cars while in trains. It leases its cars to railroads, depending for its revenue upon car hire and commissions. Guaranty Claim of C., N. Y. & B. Refrigerator Co., 575.

**Extension of Maturities:** While it is within the Commission's province to authorize the extension by indorsement of the maturity of receiver's certificates, it is not to be understood that by giving such authority the Commission passes upon or in any wise determines or affects the nature of the rights of liens to be enjoyed under said certificates or the priority of said certificates in relation to any other liens. Receiver's Certificates of M., K. & T. Ry., 76 (77).

**Indemnity Bonds:** New York, New Haven & Hartford R. R. Co., application for authority to execute a certain indemnity bond to the present stockholders of the Fruit Growers Express Co., dismissed for want of jurisdiction. Indemnity Bond of N. Y., N. H. & H. R. R., 517.

**Trackage Rights:** Proposed contracts granting trackage rights only held not to be within the scope of paragraph (18) of section 1 of the act, and authority from the Commission to exercise the rights thereunder is unnecessary. Cleveland Passenger Terminal Case, ~~342~~ (346); 659 (662). *659.*

**Transfer of Stock:** A transfer of stock from one party to another does not fall within the purview of the act, and authorization therefor by the Commission is not required. Stock of Valley & Siletz R. R., 556.

**LIABILITIES.** See OBLIGATIONS OR LIABILITIES.

**LOANS TO CARRIERS.****Acquisition of Equipment:****Applications Granted—**

Akron, Canton & Youngstown Ry. Co., 216.

Alabama, Tennessee & Northern R. R. Corp., 611.

Chicago & Eastern Illinois R. R. Co., 558.

Cowlitz, Chehalis & Cascade Ry. Co., 580.

Great Northern Ry. Co., 232.

Maine Central R. R. Co., 366.

**Acquisition of Locomotives:**

Chicago, Rock Island & Pacific Ry. Co., upon supplemental report, that portion of a loan from the United States for the purchase of gondola cars approved in 67 I. C. C., 446, modified so as to include the purchase of certain mikado locomotives. Loan to C., R. I. & P. Ry. Co., 446.

**LOANS TO CARRIERS—Continued.****Acquisition of Locomotives—Continued.**

International & Great Northern Ry. Co., upon supplemental application, carrier having effected a saving in the cost of locomotives, amount of loan granted in 67 I. C. C., 129, reduced. Loan to Receiver of I. & G. N. Ry., 336.

**Additions and Betterments:**

Akron, Canton & Youngstown Ry. Co., application for loan to aid in providing, to way and structures, granted. Loan to A., C. & Y. Ry., 216.

Aransas Harbor Terminal Ry., upon supplemental application, original findings modified and loan to aid in providing certain additions and betterments to way and structures included in a program of reconstruction of applicant's main line, destroyed by a West Indian hurricane, reduced. Certificate in former report, 65 I. C. C., 20, canceled. Loan to A. H. T. Ry., 203.

Chicago & Eastern Illinois R. R. Co., application for a loan to aid in providing additions and betterments to existing equipment and way and structures, granted. Loan to C. & E. I. R. R., 558.

Chicago Great Western R. R. Co., upon supplemental report, authority to divert a portion of the proceeds of the loan authorized in 65 I. C. C., 486 for additions and betterments to way and structures to additions and betterments to equipment, granted. Loan to C. G. W. R. R., 180.

Cowlitz, Chehalis & Cascade Ry. Co., application for a loan to aid in providing additions and betterments to way and structures, granted in part. Loan to C., C. & C. Ry., 580.

Erie R. R. Co., upon supplemental report, former reports 65 I. C. C., 134 and 317, additional loan to aid in providing additions and betterments to existing equipment and way and structures, granted. Loan to E. R. R., 361.

Huntingdon & Broad Top Mountain R. R. & Coal Co., upon supplemental report, applicant having failed to furnish surety bond as security for loan approved in 65 I. C. C., 499, to aid in making additions and betterments to way and structures, and having secured financial aid elsewhere, certificate canceled. Loan to H. & B. T. M. R. R., 395.

Jackson & Eastern Ry. Co., application for a loan to aid in extending its line, denied, as the prospective earning power and security offered are not such as to afford reasonable assurance of ability to repay within the time fixed therefor and reasonable protection to the United States. Loan to J. & E. Ry., 236.

Maine Central R. R. Co., upon supplemental report, former report 65 I. C. C., 203, additional loan to aid in making, to way and structures, granted. Applicant is not now in such financial condition that it can procure a loan from bankers or from any other source, using its bonds as security, at a reasonable rate of interest. Loan to M. C. R. R., 366.



**LOANS TO CARRIERS—Continued.****Additions and Betterments—Continued.**

Monongahela Ry. Co., application for loan to provide additions and betterments to way and structures, dismissed. Loan tentatively approved by the Commission, conditioned upon the applicant providing an equal amount to be expended for like purposes chargeable to capital account. Applicant unable to meet this condition, and requested the Commission to dismiss the application. Application of Monongahela Ry. for Loan, 326.

New Orleans, Texas & Mexico Ry. Co., upon supplemental report, authority to divert part of loan granted in 67 I. C. C., 73, to the making of certain additions and betterments not contemplated in the original applications, granted. Loan to N. O., T. & M. Ry., 620.

New York, New Haven & Hartford R. R. Co., application for a loan to aid in providing additions and betterments to existing equipment and way and structures, granted. Loan to N. Y., N. H. & H. R. R., 399.

Rutland R. R. Co., upon supplemental application, authority granted to apply specified amounts to specified projects not originally included in the purposes of the loan approved in 65 I. C. C., 351, for additions and betterments to way and structures, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Loan to Rutland R. R., 818.

Terminal R. R. Asso. of St. Louis, upon supplemental application in respect of loan for additions and betterments granted in 65 I. C. C., 195, authority granted to apply specified amounts to purposes not originally included in lieu of corresponding amounts to be abandoned or deferred; and time within which applicant should expend or definitely obligate the proceeds of the loan extended. Owing to sudden and radical changes in business conditions certain items were rendered unnecessary, and owing to increases in labor and material costs, strikes, etc., certain other items called for overexpenditures. Loan to Term. R. R. Asso. of St. Louis, 701.

Western Maryland Ry. Co., application for a loan to enable applicant to enlarge its grain elevator and elevator facilities at Port Covington terminal, near Baltimore, Md., granted. Loan to W. M. Ry., 387.

**Applications Denied :**

Jackson & Eastern Ry. Co., 236.

**Applications Granted :**

Akron, Canton & Youngstown Ry. Co., 216.

Alabama, Tennessee & Northern R. R. Corp., 611.

Boston & Maine R. R., 374.

Carolina, Clinchfield & Ohio Ry., 503 ; 783.

Central Vermont Ry. Co., 572.

Chicago & Eastern Illinois R. R. Co., 558.

Chicago Great Western R. R. Co., 649.

Erie R. R. Co., 361.

Gainesville & Northwestern R. R. Co., 615.

Great Northern Ry. Co., 335.

Kansas City, Mexico & Orient R. R. Co., 639.

Kansas City Terminal Ry. Co., 27.

Maine Central R. R. Co., 366.

New York, New Haven & Hartford R. R. Co., 399.

Western Maryland Ry. Co., 387.

**LOANS TO CARRIERS—Continued.****Applications Granted in Part:**

**Cambria & Indiana R. R. Co., 212.**

**Central Vermont Ry. Co., 309.**

**Cowlitz, Chehalis & Cascade Ry. Co., 580.**

**Great Northern Ry. Co., 232.**

**Applications Withdrawn:**

**Monongahela Ry. Co., 326.**

**Certificates Canceled:**

**Delaware & Hudson Co., 241.**

**Huntingdon & Broad Top Mountain R. R. & Coal Co., 895.**

**Inability to Obtain Funds from Sources other than the United States:**

**Maine Central R. R. Co., upon supplemental report, former report 65 I. C. C., 203, additional loan to aid in the acquisition of equipment and additions and betterments to way and structures, granted. Applicant is not now in such financial condition that it can procure a loan from bankers or from any other source, using its bonds as security, at a reasonable rate of interest. Loan to M. C. R. R., 366.**

**Wichita Northwestern Ry. Co., upon supplemental report, conditions prescribed in certificate issued in 67 I. C. C., 522, for the purpose of enabling applicant to meet its maturing indebtedness, amended to provide that the time within which applicant shall finance a certain sum in connection therewith, be extended from 90 to 180 days from the making thereof. Loan to W. N. W. Ry., 627.**

**Reduction in Amount Heretofore Granted:**

**International & Great Northern Ry. Co., 336.**

**New York, New Haven & Hartford R. R. Co., 543.**

**To Meet Maturities:****Applications Denied—**

**Jackson & Eastern Ry. Co., 236.**

**Applications Granted—**

**Akron, Canton & Youngstown Ry. Co., 216.**

**Boston & Maine R. R., 374.**

**Carolina, Clinchfield & Ohio Ry., 503; 783.**

**Central Vermont Ry. Co., 572.**

**Chicago & Eastern Illinois R. R. Co., 558.**

**Chicago Great Western R. R. Co., 649.**

**Gainesville & Northwestern R. R. Co., 615.**

**Great Northern Ry. Co., 335.**

**Kansas City, Mexico & Orient R. R. Co., 639.**

**Kansas City Terminal Ry. Co., 27.**

**New York, New Haven & Hartford R. R. Co., 399.**

**Applications Granted in Part—**

**Cambria & Indiana R. R. Co., 212.**

**Central Vermont Ry. Co., 309.**

**Cowlitz, Chehalis & Cascade Ry. Co., 580.**

**LOANS TO CARRIERS—Continued.****Unexpended Balances:**

**Boston & Maine R. R.**, upon supplemental application, report and certificate issued in 65 I. C. C., 402, so amended as to provide for the diversion of the unexpended or unobligated balance of the loan, to items of equipment and additions and betterments other than those to which the loan was dedicated; and also for an extension of the time within which the proceeds of the loan for additions and betterments shall have been expended or definitely obligated. Loan to B. & M. R. R., 679.

**Chicago, Rock Island & Pacific Ry. Co.**, upon supplemental application certificate issued in 65 I. C. C., 371, amended to provide for an extension of time within which the entire loan for additions and betterments shall have been expended or definitely obligated. Loan to C., R. I. & P. Ry., 563.

**Indiana Harbor Belt R. R. Co.**, upon supplemental application in respect of the loan for additions and betterments, authority granted to offset underruns against overruns in expenditures and to use net underruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts now desired to be curtailed, abandoned or deferred. Certificate issued in 67 I. C. C., 89, so amended as to provide for an extension of time within which applicant shall expend or definitely obligate the loan in respect of additions and betterments. Loan to I. H. B. R. R., 806.

**Long Island R. R. Co.**, upon supplemental report, certificate issued in 65 I. C. C., 247, amended to provide for an extension of time within which the applicant shall expend or definitely obligate the proceeds of the loan in respect to additions and betterments. Loan to L. I. R. R., 609.

**New York Central R. R. Co.**, upon supplemental application in respect of the loan for additions and betterments of applicant and certain of its subsidiaries, authority granted to offset underruns against overruns in expenditures and to use net overruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Certificate issued in 65 I. C. C., 503, so amended as to provide for an extension of time within which applicant shall expend or definitely obligate such loan. Loan to N. Y. C. R. R., 809.

**Rutland R. R. Co.**, upon supplemental application, authority granted to apply specified amounts to specified projects not originally included in the purposes of the loan approved in 65 I. C. C., 351, for additions and betterments to way and structures, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Loan to Rutland R. R., 818.

**Shearwood Ry. Co.**, authority to divert unexpended balance from loan granted in 65 I. C. C., 367, for additions and betterments to way and structures, toward the liquidation of certain indebtedness, granted. Diversion of Funds by Shearwood Ry., 339.

**LOANS TO CARRIERS—Continued.****Unexpended Balances—Continued.**

Terminal R. R. Asso. of St. Louis, upon supplemental application in respect of loan for additions and betterments granted in 65 I. C. C., 195, authority granted to apply specified amounts to purposes not originally included in lieu of corresponding amounts to be abandoned or deferred; and time within which applicant should expend or definitely obligate the proceeds of the loan extended. Owing to sudden and radical change in business conditions certain items were rendered unnecessary, and owing to increases in labor and material costs, strikes, etc., certain other items called for overexpenditures.

Loan to Terminal R. R. Asso. of St. Louis, 701.

Wheeling & Lake Erie Ry. Co., upon supplemental report, authority to divert the unexpended balance of the proceeds of the loan certified in 65 I. C. C., 217, for additions and betterments to way and structures, to the retirement of maturing short-term notes, granted.

Loan to W. & L. E. Ry., 511.

**LOCOMOTIVES.**

Chicago, Rock Island & Pacific Ry. Co., upon supplemental report, that portion of a loan from the United States for the purchase of gondola cars approved in 67 I. C. C., 446, modified so as to include the purchase of certain mikado locomotives. Loan to C., R. I. & P. Ry. Co., 446.

International & Great Northern Ry. Co.:

Upon supplemental application, carrier having effected a saving in the cost of locomotives, amount of loan granted in 67 I. C. C., 129, reduced. Loan to Receiver of I. & G. N. Ry., 336.

Authority to deliver notes to the Baldwin Locomotive Works in part payment for eight locomotives, granted. Certificates of Receiver of I. & G. N. Ry., 384.

Oklahoma & Arkansas Ry. Co., authority to issue capital stock to a contractor for the construction of a line of railroad extending from a point on the Kansas, Oklahoma & Gulf R. R. near Salina, Okla., to Kansas, Okla., certificate for which was authorized in 70 I. C. C., 448, and for one steam locomotive, granted. Stock of O. & A. Ry., 460.

Sewell Valley R. R. Co., authority to issue first-mortgage gold bonds for the purpose of reimbursing its treasury in part for money expended in the purchase of a locomotive, granted. Bonds of S. V. R. R., 765.

**MAINTENANCE.**

It is not proper in determining amounts payable under the guaranty, under section 209 of the transportation act, to take into consideration differences in cost of labor and materials which would not have affected the account if guaranty-period conditions had been substituted for those of the test period, and neither depreciation nor retirement accounts will be adjusted for such differences. In fixing maximum maintenance allowances for the guaranty period, charges representing depreciation and retirements will be computed upon the same bases as those which were used during an average six months of the test period. Maintenance Expenses under Section 209, 115 (127).

For the purpose of the guaranty under section 209 of the transportation act, 1920, charges to operating expenses for maintenance will be limited to those applying to work done between March 1 and August 31, 1920, inclusive, and to charges accrued or equalized in accordance with the Commission's accounting rules. No charges for deferred maintenance will be considered. Final Settlement under Section 209, 711 (712-713).

**MAINTENANCE—Continued.**

Announcement of general rule for adjustment of differences in cost of labor and material in establishing the maximum amounts to be included in operating expenses for maintenance of way and structures and for maintenance of equipment for the purposes of the guaranty under section 209 of the transportation act, 1920. *Id.* (714-715).

**MATURITIES.**

**In General:** While it is within the Commission's province to authorize the extension by indorsement of the maturity of receiver's certificates, it is not to be understood that by giving such authority the Commission passes upon or in any wise determines or affects the nature of the rights of liens to be enjoyed under said certificates or the priority of said certificates in relation to any other liens. *Receiver's Certificates of M., K. & T. Ry.*, 76 (77).

**Akron, Canton & Youngstown Ry. Co.**, application for loan to aid in meeting, granted. *Loan to A., C. & Y. Ry.*, 216.

**Arcade & Attica R. R. Corp.**, authority to issue a promissory note to secure funds with which to pay outstanding maturing notes the proceeds of which were used to pay indebtedness incurred for interchange of freight with other carriers; and to issue first-mortgage gold bonds, and pledge same as collateral security for said note, granted. *Securities of A. & A. R. R. Corp.*, 82.

**Ashland Coal & Iron Ry. Co.**, authority to issue promissory note payable to the Ashland Iron & Mining Co. to cover current indebtedness now carried in open account; and to issue, from time to time, promissory notes in renewal thereof, granted. *Notes of A. C. & I. Ry.*, 656

**Boston & Maine R. R.**, application for a loan to aid in meeting, granted. *Loan to B. & M. R. R.*, 374.

**Cambria & Indiana R. R. Co.:**

Application for a loan to aid in meeting, granted in part. *Loan to C. & I. R. R.*, 212.

Authority to issue a one-year promissory note, said note to be sold at not less than 99 per cent of par and accrued interest and the proceeds applied toward the payment of two-year gold notes which have matured; and to pledge as collateral security therefor general-mortgage bonds, granted. *Securities of C. & I. R. R.*, 422.

**Carolina, Clinchfield & Ohio Ry.:**

Upon supplemental report, former report 65 I. C. C., 26, application for an additional loan to aid in meeting, granted. *Loan to C., C. & O. Ry.*, 503.

Application for a loan for the purpose of meeting at maturity first-mortgage gold notes and a loan from the United States heretofore approved in 70 I. C. C., 503, granted. *Loan to C., C. & O. Ry.*, 783.

Authority to extend the maturity date of first-mortgage gold notes; and to pledge them, together with first-mortgage gold bonds, as security for a loan under section 210 of the transportation act, 1920, granted. *Securities of C., C. & O. Ry.*, 836.

**Central Vermont Ry. Co.:**

Application for a loan to aid in meeting, granted in part. *Loan to C. V. Ry.*, 309.

Application for a loan to enable applicant to pay off and discharge maturing first-mortgage bonds, granted. *Loan to C. V. Ry.*, 572.

**MATURITIES—Continued.**

Chicago & Eastern Illinois R. R. Co., application for a loan to partially reimburse applicant for expenditures made since the termination of Federal control for maturing indebtedness, granted. Loan to C. & E. I. R. R., 558.

Chicago & Illinois Western R. R., authority to issue and deliver noncumulative preferred capital stock in liquidation of interest-bearing indebtedness, granted. Stock of C. & I. W. R. R., 652.

Chicago & North Western Ry. Co., authority to procure authentication and delivery to applicant's treasurer of general-mortgage gold bonds, on account of expenditures made in the payment and retirement of certain underlying bonds, granted. Bonds of C. & N. W. Ry., 758.

Chicago Great Western R. R. Co., application for loan to meet the maturity of a loan granted in 65 I. C. C., 433, approved. Loan to C. G. W. R. R., 649.

Cowlitz, Chehalis & Cascade Ry. Co., application for a loan to aid in meeting, granted in part. Loan to C., C. & C. Ry., 580.

Duluth, Missabe & Northern Ry. Co., authority to issue general-mortgage gold bonds for the purpose of refunding a like amount of maturing first-division mortgage bonds, granted. Bonds of D., M. & N. Ry., 708.

Fort Worth & Denver City Ry. Co., authority to extend maturity date of first-mortgage bonds, granted. Bonds of Ft. W. & D. C. Ry., 603.

Gainesville & Northwestern R. R. Co., application for a loan to aid in meeting, granted. Loan to G. & N. W. R. R., 615.

Georgia R. R. & Banking Co., authority to issue and sell debenture bonds, the proceeds thereof to be used in connection with other funds to pay off and retire a like amount of plain debentures now outstanding, granted. Debentures of G. R. R. & B. Co., 467.

Great Northern Ry. Co., application for a loan to enable applicant to repay at maturity a previous loan heretofore authorized in 65 I. C. C., 78, 139, 258, and 67 I. C. C., 41, granted. Loan to G. N. Ry., 335.

Illinois Central R. R. Co., authority to issue and sell secured gold bonds to secure funds to meet certain maturing indebtedness, and to pledge as collateral security therefor certain refunding mortgage bonds of the applicant and the Chicago, St. Louis & New Orleans R. R. Co., granted. Bonds of I. C. R. R. Co., 274.

Jackson & Eastern Ry. Co., application for a loan to aid in meeting, denied as prospective earning power and security offered are not such as to afford reasonable assurance of ability to repay within the time fixed therefor and reasonable protection to the United States. Loan to J. & E. Ry., 236.

Jacksonville Terminal Co., upon supplemental report, authority to issue a promissory note in renewal of a maturing note issued in accordance with the Commission's order in 65 I. C. C., 415, granted. Notes of J. T. Co., 526.

Kansas City, Mexico & Orient R. R. Co., application for loan to meet the maturity of a previous loan granted in 65 I. C. C., 265, approved. Loan to Receiver of K. C., M & O. R. R., 639.

Kansas City Terminal Ry. Co., application for loan to meet, granted. Loan to K. C. T. Ry., 27.

**MATURITIES—Continued.**

Lancaster & Chester Ry. Co., authority to enter into an agreement with the holder of first-mortgage gold bonds for the extension of the maturity date, and to increase the rate of interest thereon from 5 to 7 per cent per annum, granted. Bonds of L. & C. Ry., 280.

Louisville & Nashville R. R., authority to issue and sell first and refunding mortgage gold bonds for purpose of reimbursing its treasury for expenditures for additions and betterments, and for purpose of retiring first-mortgage bonds of certain predecessor companies, granted. Securities of L. & N. R. R., 749.

Manchester & Oneida Ry. Co., authority to issue new first-mortgage 6 per cent bonds, to be exchanged, par for par, for a like aggregate amount of first-mortgage 5 per cent bonds now outstanding, granted. Bonds of M. & O. Ry. Co., 672.

Missouri, Kansas & Texas Ry. Co. of Texas, authority to extend by indorsement the maturity of receiver's certificates issued for the purpose of obtaining funds to meet necessary expenses of operation, granted. Receiver's Certificates of M., K. & T. Ry., 76.

New York, New Haven & Hartford R. R. Co., application for loan to aid in meeting, granted. Loan to N. Y., N. H. & H. R. R., 399.

Norfolk & Portsmouth Belt Line R. R. Co., authority to issue a one-year promissory note at an increased rate of interest, in renewal for the unpaid amount of a maturing promissory note, granted. Note of N. & P. B. L. R. R., 182.

Pearl River Valley R. R. Co., authority to issue, from time to time, unsecured promissory notes in renewal of certain maturing outstanding notes, granted. Notes of P. R. V. R. R., 340.

Shearwood Ry. Co., authority to apply an unexpended balance from loan granted in 65 I. C. C., 367, for additions and betterments to way and structures, toward the liquidation of certain indebtedness, granted. Diversion of Funds by Shearwood Ry., 339.

Southern Ry. Co., authority to sell first consolidated mortgage gold bonds for the purpose of providing funds for the redemption of an equal amount of maturing first-mortgage bonds of the Georgia Pacific Ry. Co., granted. Bonds of S. Ry., 528.

Union Terminal Co., authority to enter into agreements with the holders of unsecured notes for the extension of the maturity date thereof for a period of one year, granted. Applicant's financial condition is such as to preclude payment of the notes at maturity, and it must either extend the notes or borrow money to discharge the debt. Notes of U. T. Co., 195.

Western Pacific R. R. Co., authority to issue and sell first-mortgage bonds, the proceeds thereof to be applied to the redemption and payment of outstanding equipment gold notes, and to reimburse applicant in part for the payment of notes which became due, granted. Bonds of W. P. R. R., 622.

Wheeling & Lake Erie Ry. Co., upon supplemental report, authority to divert the unexpended balance of the proceeds of the loan certified in 65 I. C. C., 217, for additions and betterments to way and structures, to the retirement of maturing short-term notes, granted. Loan to W. & L. E. Ry., 511.



**MERGER.** *See* ACQUISITION OF CONTROL; CONSOLIDATION.

**MORTGAGES.**

Through control of a carrier by stock ownership a company is in a position to control various matters specified in a proposed mortgage, but should such company part with control through such ownership of a *majority of the stock*, it would not be proper for them to retain control over such matters. The incorporation of such provisions in a mortgage are unnecessary and improper. *Securities of Texas City Terminal Ry.*, 244 (248).

**MOTOR VEHICLE COMPETITION.** *See* COMPETITION.

**NEW LINES.** *See also* EXTENSION OF LINE.

**Ahukini Terminal & Ry. Co. (Ltd.):**

Certificate of public convenience and necessity authorizing the construction and operation of a line of railroad in the district of Puna, Island of Kauai, Territory of Hawaii, granted. Proposed line should be of material benefit to the development of the territory which it would serve, and there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to A. T. & Ry. Co. (Ltd.), 198.

Authority to issue and sell capital stock, the proceeds thereof to be used in constructing and equipping a railroad on the Island of Kauai, Territory of Hawaii, pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 198, granted. Stock of A. T. & Ry. Co., 509.

**Chicago, Milwaukee & Gary Ry. Co.,** certificate of public convenience and necessity authorizing the construction of a line of railroad from Aurora to Joliet, Ill., issued. Such new line will furnish a connection between applicants two unconnected segments of main-line track, and will eliminate operation by means of trackage agreement with the Elgin, Joliet & Eastern through the congested area of the Chicago switching district, especially in the vicinity of Joliet. Public Convenience Certificate to C., M. & G. Ry., 846.

**Flint Belt R. R. Co.,** certificate of public convenience and necessity authorizing the construction and operation of a line of railroad in Genesee County, Mich., issued. The road is designed particularly to serve the present and future manufacturing industries of Flint, Mich., and to afford a route over which may be detoured the through freight traffic of the Pere Marquette, the main line of which bisects the congested part of the city, involving not only inconvenience and delay but annoyance and danger to citizens. Public Convenience Certificate to F. B. R. R., 292.

**Golden Belt R. R.,** upon supplemental report, conclusions in former report, 67 I. C. C., 370, that public convenience and necessity were not shown to require the construction of a new line of railroad between Great Bend and Hays, Kans., affirmed. Facts do not disclose any practical advantage in hauling grain to Gulf ports instead of to more distant eastern points, or any good reason why existing lines can not take care of the traffic if such advantage exists, and passenger traffic of the character anticipated will not prove of much value from the standpoint of revenues. Public Convenience Application of G. B. R. R., 73.

**NEW LINES—Continued.**

Idaho Central R. R. Co., certificate of public convenience and necessity authorizing the construction of a line of railroad in Twin Falls County, Idaho, and Elko County, Nev., issued. Proposed line will supply an additional outlet for the products of the region served by the Oregon Short Line; a more direct route to San Francisco, Calif., for such products and for passenger traffic; a connection between northern Nevada and southern Idaho; and a route for the shipment of mine products in the Contact district. Public Convenience Certificate to I. C. R. R., 265.

Oklahoma & Arkansas Ry. Co., certificate of public convenience and necessity authorizing the construction of a new line of railroad in Mayes and Delaware Counties, Okla., issued. Primary purpose of the proposed construction is to provide facilities for the marketing of timber products, but applicant proposes also to engage in general transportation as a common carrier. Such construction would aid in the development of a territory that is without adequate railroad transportation facilities. Public Convenience Certificate to O. & A. Ry., 448.

**NOTES.**

In General: Delivery of a note by a subsidiary to a proprietary company, without complying with the provisions of section 20a of the act which provides that it shall be unlawful for any carrier to issue any securities, even though permitted by the authority creating it, unless authorized by the Commission, is, by the plain terms of the statute, void, and no means are provided for validating it. It is not an obligation of the carrier, and may not be carried on its books as such. Notes of St. L., S. F. & T. Ry., 827 (828).

Alabama, Tennessee & Northern R. R. Corp., authority to issue equipment-trust notes in connection with the lease of certain equipment; and to pledge them as part security for a loan under section 210 of the transportation act, 1920, granted. Securities of A., T. & N. R. R., 675.

Aransas Harbor Terminal Ry., authority to issue prior-lien gold notes, said notes to be pledged with the Secretary of the Treasury as security for a loan from the United States approved in 70 I. C. C., 203, granted. Notes of A. H. T. Ry., 429.

Arcade & Attica R. R. Corp., authority to issue a promissory note to secure funds with which to pay outstanding maturing notes the proceeds of which were used to pay indebtedness incurred for interchange of freight with other carriers; and to issue first-mortgage gold bonds, and pledge same as collateral security for said note, granted. Securities of A. & A. R. R. Corp., 82.

Ashland Coal & Iron Ry. Co., authority to issue promissory note payable to the Ashland Iron & Mining Co. to cover current indebtedness now carried in open account; and to issue, from time to time, promissory notes in renewal thereof, granted. Notes of A. C. & I. Ry., 656.

Cambria & Indiana R. R. Co., authority to issue a one-year promissory note, said note to be sold at not less than 99 per cent. of par and accrued interest and the proceeds applied toward the payment of two-year gold notes which have matured; and to pledge as collateral security therefor general-mortgage bonds, granted. Securities of C. & I. R. R., 422.

## NOTES—Continued.

Carolina, Clinchfield & Ohio Ry., authority to extend the maturity date of first-mortgage gold notes; and to pledge them, together with first-mortgage gold bonds, as security for a loan under section 210 of the transportation act, 1920, granted. Securities of C., C. & O. Ry., 836.

Charles City Western Ry. Co.:

Authority to issue first-mortgage gold notes, to pledge part thereof as collateral security for a loan from the United States, and to sell the remainder and use the proceeds thereof to retire certain notes and reimburse its treasury for moneys expended on capital account, granted. Notes of C. C. W. Ry., 85.

Upon supplemental report and further consideration of sections 1611 and 2049 of the Iowa Code, and the construction of said statutes by the supreme court of the state of Iowa in *Barnes v. Eastern Iowa Ry. Co.*, 155 Iowa, 721, authority to issue and sell first-mortgage gold notes in addition to those authorized in 70 I. C. C., 85, granted. Notes of C. C. W. Ry., 286.

Chicago, Milwaukee & St. Paul Ry. Co., authority to assume, as lessee, obligation and liability in respect of the payment of the principal and interest of promissory notes of the Chicago, Terre Haute & S. E. Ry. Co., granted. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20.

Chicago, Rock Island & Pacific Ry. Co., authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement. Equipment Notes of C., R. I. & P. Ry., 61.

Cumberland & Manchester R. R. Co.:

Authority to assume obligation or liability in respect of the payment of the principal and interest of promissory notes issued in connection with the construction of the Horse Creek R. R., granted. Securities, etc., of C. & M. R. R., 9.

Authority to assume obligation or liability in respect of the payment of unpaid principal and interest of three promissory notes issued in connection with the purchase of certain equipment, granted. *Id.* (9).

East St. Louis Junction R. R. Co., authority to issue at par a demand note or notes, payable to the St. Louis National Stock Yards for advances made by that company to applicant to meet pay rolls, granted. Notes of E. St. L. J. R. R., 420.

El Paso & Southwestern Co., authority to issue short-term promissory notes to be delivered directly or to be sold at par, the proceeds thereof to be used in part payment of the purchase price of all the outstanding stock and bonds of the Arizona & New Mexico Ry. Co., granted. Acquisition of Control, etc., by E. P. & S. W. Co., 795.

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in retiring outstanding notes; in paying indebtedness incurred in the maintenance of service; in repairing and replacing the right of way which was very severely damaged by floods; and in creation of a larger working capital to enable it to maintain and improve its service, granted. Notes of F. V. R. R., 524.

Fort Worth & Rio Grande Ry. Co., authority to issue a promissory note payable on demand to the St. Louis-San Francisco Ry. Co. or order in respect of expenditures for additions and betterments made by that company to applicant's property, granted. Note of Ft. W. & R. G. Ry., 883.

**NOTES—Continued.**

Great Northern Ry. Co., authority to sell equipment gold notes in connection with the procurement of refrigerator cars, granted. Equipment Notes of G. N. Ry., 381.

International & Great Northern Ry. Co., authority to deliver notes to the Baldwin Locomotive Works in part payment for eight locomotives, granted. Certificates of Receiver of I. & G. N. Ry., 384.

Jacksonville Terminal Co., upon supplemental report, authority to issue a promissory note in renewal of a maturing promissory note, the issue of which has heretofore been authorized in 65 I. C. C., 415, granted. Notes of J. T. Co., 526.

Lake Erie, Franklin & Clarion R. R. Co., upon supplemental report, authority to issue, from time to time, promissory notes in renewal of a promissory note, the issue of which has heretofore been authorized in 67 I. C. C., 639, 641, granted. Note of L. E., F. & C. R. R., 255.

Minneapolis & St. Louis R. R. Co., authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement. Equipment Notes of M. & St. L. R. R., 67.

New York, New Haven & Hartford R. R. Co.:

Upon supplemental report, authority to sell equipment-trust notes, the proceeds to be used toward payment of promissory notes the issue of which has heretofore been authorized in 65 I. C. C., 289, and for which the equipment-trust notes have been pledged as collateral security, granted. Notes of N. Y., N. H. & H. R. R., 540.

Authority to assume obligation or liability in respect of a note to cover part of the consideration for the purchase of a certain tract of land in the city of Waterbury, Conn., granted. Assumption of Obligation by N. Y., N. H. & H. R. R., 625.

Norfolk & Portsmouth Belt Line R. R. Co.:

Authority to issue a one-year promissory note at an increased rate of interest, in renewal for the unpaid amount of a maturing promissory note, granted. Note of N. & P. B. L. R. R., 182.

Authority to issue a promissory note in renewal of a note for a similar amount; and to issue, from time to time, notes in renewal thereof for like amounts, granted. Notes of N. & P. B. L. R. R., 379.

Pearl River Valley R. R. Co., authority to issue, from time to time, unsecured promissory notes in renewal of certain outstanding notes, granted. Notes of P. R. V. R. R., 340.

St. Louis, San Francisco & Texas Ry. Co., authority to issue promissory notes, payable on demand to the St. Louis-San Francisco Ry. Co. or order, and to be delivered to that company in respect of expenditures for certain additions and betterments to applicant's property, granted. Notes of St. L., S. F. & T. Ry., 827.

San Antonio & Arkansas Pass Ry. Co., authority to execute and deliver, at par, to the General Equipment Co. (Inc.), equipment notes in connection with the procurement of certain equipment, granted. Equipment Notes of S. A. & A. P. Ry., 319.

San Diego & Arizona Ry. Co., authority to issue two one-day promissory notes, one payable to the Southern Pacific Co. and the other to the J. D. & A. B. Spreckels Securities Co., to cover certain indebtedness of the applicant for advances made by those companies, granted. Notes of S. D. & A. Ry., 39.

**NOTES—Continued.**

Union Terminal Co., authority to enter into agreements with the holders of unsecured notes for the extension of the maturity date thereof for a period of one year, granted. Applicant's financial condition is such as to preclude payment of the notes at maturity, and it must either extend the notes or borrow money to discharge the debt. Notes of U. T. Co., 195.

West Tulsa Belt Ry. Co., authority to issue promissory notes, payable to the St. Louis-San Francisco Ry. Co., or order, and to be delivered to that company in respect of expenditures for certain additions and betterments made to applicant's property, granted. Notes of W. T. B. Ry., 830.

Wheeling & Lake Erie Ry. Co., authority granted to issue rent notes under a contract to be entered into pursuant to National Ry. Service Corp.'s equipment-trust agreement. Notes, etc., of Wheeling & Lake Erie Ry., 44.

**OBLIGATIONS OR LIABILITIES.**

Chesapeake & Ohio Ry. Co.:

Authority to assume the obligation of the Chesapeake & Ohio Northern Ry. Co. to pay the principal and interest of its first-mortgage gold bonds, granted. Acquisition of C. & O. N. Ry. by C. & O. Ry., 550.

Authority to assume obligation and liability, as lessee, in respect of first-mortgage gold bonds of the Chesapeake & Ohio Ry. Co. of Indiana, by agreeing to pay the principal and interest of said bonds; to perform all the covenants and conditions of the mortgage securing them; and to indemnify and hold the lessor harmless from forfeiture or liability by reason of any breach of such covenants and conditions, granted. Lease of C. & O. Ry. of Indiana by C. & O. Ry. Co., 694.

Chicago, Burlington & Quincy R. R. Co., together with other proprietary companies authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. Bonds of Chicago Union Station Co., 191.

Chicago, Milwaukee & St. Paul Ry. Co.:

Authority to assume, as lessee, obligation and liability in respect of the payment of the principal and interest of equipment bonds, promissory notes, first and refunding mortgage bonds, and income-mortgage bonds of the Chicago, Terre Haute & S. E. Ry. Co.; and of first-mortgage bonds of the Bedford Belt Ry. Co. and Southern Indiana Ry. Co., granted. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 20.

Together with other proprietary companies authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. Bonds of Chicago Union Station Co., 191.

**OBLIGATIONS OR LIABILITIES—Continued.****Chicago, Milwaukee & St. Paul Ry. Co.—Continued.**

Upon supplemental report, authority to assume, as lessee, the obligation or liability of the Chicago, Terre Haute & S. E. Ry. Co. in respect of the payment of the principal and interest of first and refunding mortgage gold bonds, in accordance with the terms of an indenture of lease made by and between the applicants, granted. Former report 70 I. C. C., 20. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 594.

**Chicago, Rock Island & Pacific Ry. Co.:**

Authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury interests and equities in certain bonds to secure the repayment of the loan, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corp.'s equipment trust, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of C., R., I. & P. Ry., 61.

Authority to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of first-mortgage gold bonds of the Rock Island, Arkansas & Louisiana R. R. Co., granted. Authorized issue is to be used in full payment for moneys advanced for improvements and additions. Assumption of Obligation by C., R. I. & P. Ry. Co., 80.

Upon supplemental report, former report 70 I. C. C., 80, authority to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of first-mortgage gold bonds of the St. Paul & Kansas City Short Line R. R. Co., granted. Since the St. Paul has no credit the applicant's guaranty will result in the creation of a market for the bonds. Applicant proposes to hold these bonds in its treasury to be pledged as collateral security for such short-term loans as it may find necessary to make until their market price shall improve. Assumption of Obligation by C., R. I. & P. Ry., 493.

**Cumberland & Manchester R. R. Co.:**

Authority to assume obligation or liability in respect of equipment trust certificates by entering into an equipment trust agreement under which the certificates will be issued by the Union Trust Co., of Pittsburgh; by indorsing upon each certificate its guaranty of the payment of the principal and dividends thereof; and by entering into a lease of the trust equipment, thereby agreeing to pay rent sufficient to pay the principal and dividends of such certificates, granted. Securities, etc., of C. & M. R. R., 9.

Authority to assume obligation or liability in respect of the payment of the principal and interest of promissory notes issued in connection with the construction of the Horse Creek R. R., granted. Id. (9).



**OBLIGATIONS OR LIABILITIES—Continued.****Cumberland & Manchester R. R. Co.—Continued.**

Authority to assume obligation or liability in respect of the payment of unpaid principal and interest of three promissory notes issued in connection with the purchase of certain equipment, granted. *Id.* (9).

Huntingdon & Broad Top Mountain R. R. & Coal Co., authority to assume obligation and liability in respect of equipment trust certificates to be issued under the Huntingdon & Broad Top rolling-equipment trust in connection with the procurement of locomotives and all-steel passenger-train cars, granted. *H. & B. T. Rolling-Equipment Trust*, 173.

Minneapolis & St. Louis R. R. Co., authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Railway Service Corp.'s equipment trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury refunding and extension mortgage gold bonds, and interests and equities in certain other bonds to secure the repayment of the loan, and any obligations evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corp.'s equipment trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. *Equipment Notes of M. & St. L. R. R.*, 67.

New York, New Haven & Hartford R. R. Co., authority to assume obligation or liability in respect of a note to cover part of the consideration for the purchase of a certain tract of land in the city of Waterbury, Conn., granted. *Assumption of Obligation by N. Y., N. H. & H. R. R.*, 625.

Oregon-Washington R. R. & Navigation Co., authority to assume additional liability, for a consideration, by the modification of the tax covenant of its outstanding first and refunding mortgage bonds, granted. *Bonds of O.-W. R. R. & Nav. Co.*, 99.

Pennsylvania Co., together with other proprietary companies, authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. *Bonds of Chicago Union Station Co.*, 191.

Pittsburgh & West Virginia Ry. Co., application under section 20a of the act to issue capital stock and to assume obligation and liability in respect of certain securities in connection with the purchase of the property and franchises of the West Side Belt R. R. Co., denied. Such proposed stock issue and assumption of obligation and liability are for the purpose of purchase by the Pittsburgh and sale by the Belt of the property and franchises of the latter, which can not lawfully be accomplished without the Commission's authority under the provisions of section 5 of the act. *Securities Application of P. & W. V. Ry.*, 682.

Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co., together with other proprietary companies, authorized to assume the liability of jointly and severally guaranteeing the payment of the principal and interest of first-mortgage bonds of the Chicago Union Station Co., the proceeds of which are to be used solely in the construction of the union passenger station and facilities at Chicago, Ill. *Bonds of Chicago Union Station Co.*, 191.



**OBLIGATIONS OR LIABILITIES—Continued.**

**Southern Pacific Co.**, authority to assume obligation or liability as guarantor by indorsement in respect of the principal and interest of first-mortgage bonds of the Houston East & West Texas Ry. Co., granted. Assumption of Obligation by S. P. Co., 88.

**Union Pacific R. R. Co.**, authority to assume obligation or liability in respect of certain bonds of the Oregon-Washington R. R. & Nav. Co., a subsidiary, by guaranteeing by indorsement the payment of principal and interest thereon, granted. Bonds of O.-W. R. R. & Nav. Co., 99.

**Wheeling & Lake Erie Ry. Co.**, authority granted to issue rent notes under a contract to be entered into pursuant to National Ry. Service Corp.'s equipment trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States; to pledge with the Secretary of the Treasury refunding mortgage bonds, and interests and equities in other bonds to secure the repayment of a loan to the Service Corporation, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to transfer, assign, and set over unto the Bankers Trust Co., trustee under the Service Corp.'s equipment trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein, granted. Notes, etc., of Wheeling & Lake Erie Ry., 44.

**OPERATING CONTRACTS.** *See* **CONTRACTS.**

**PARTIAL PAYMENT.**

All carriers which accepted the provisions of section 209 of the transportation act, 1920, required to file on or before March 1, 1922, final statements of amounts due to them or to the United States thereunder. No further partial payments will be certified until the information necessary for final settlement is at hand. Forms for rendition of statements prescribed. Final Settlement under Section 209, 711 (714).

**PASSENGER STATIONS.** *See* **STATIONS.**

**PAST PERFORMANCE.**

Contention that territory served is developing agriculturally, and that a substantial increase may be anticipated in the business available to the railroad which it is proposed to abandon; and that there will be a serious loss in real estate values in that territory if the line is abandoned. *Held*, The hope of increased business in the future can hardly prevail against the results of actual experience in the operation of the line. Abandonment of Hawkinsville & Florida Southern Ry., 566 (568).

**PLEADING AND PRACTICE.**

The judgment of a court of competent jurisdiction can not be made the subject of collateral attack before the Commission in a proceeding involving a proposed issue of stock. Stocks of Denver & Rio Grande Western R. R., 102 (106).

**POWER OF COMMISSION.** *See* **JURISDICTION.**

**PROMISSORY NOTES.** *See* **NOTES.**

**PUBLIC CONVENIENCE AND NECESSITY.** *See* **CONVENIENCE AND NECESSITY.**

**PUBLIC POLICY.**

The Commission is not persuaded that the reservation of "air rights" of terminals in the hands of private interests is in accordance with sound public policy. Cleveland Passenger Terminal Case, 342 (351).

**RECEIVER'S CERTIFICATES.**

**In General:** While it is within the Commission's province to authorize the extension by indorsement of the maturity of receiver's certificates, it is not to be understood that by giving such authority the Commission passes upon or in anywise determines or affects the nature of the rights of liens to be enjoyed under said certificates or the priority of said certificates in relation to any other liens. *Receiver's Certificates of M., K. & T. Ry.*, 76 (77).

*International & Great Northern Ry. Co.*, authority to pledge receiver's certificates with the Secretary of the Treasury as security for a loan from the United States, granted. *Certificates of Receiver of I. & G. N. Ry.*, 384.

*Kansas City, Mexico & Orient R. R. Co.*, upon supplemental report, authority granted to issue a receiver's certificate for pledge with the Secretary of the Treasury as security for a loan from the United States heretofore granted in 65 I. C. C., 283. *Certificate of Receiver of K. C., M. & O. R. R.*, 646.

*Missouri, Kansas & Texas Ry. Co. of Texas*, authority to extend by indorsement the maturity of receiver's certificates issued for the purpose of obtaining funds to meet necessary expenses of operation, granted. *Receiver's Certificates of M., K. & T. Ry.*, 76.

**RECONSTRUCTION.**

*Aransas Harbor Terminal Ry.*, upon supplemental application, original finding modified and loan to aid in providing certain additions and betterments to way and structures included in a program of reconstruction of applicant's main line, destroyed by a West Indian hurricane, reduced. *Certificate in former report*, 65 I. C. C., 20, canceled. *Loan to A. H. T. Ry.*, 203.

*Arkansas & Louisiana Missouri Ry. Co.*, authority to issue capital stock, the proceeds thereof to be used in acquiring and rebuilding the property formerly owned by the *Arkansas & Louisiana Midland Ry. Co.*, extending from Monroe, La., to Crossett, Ark., granted. *Stock of A. & L. M. Ry. Co.*, 58.

**REFERENDUM.**

The suitable location of a passenger terminal within a great city is a matter which can best be determined locally rather than by a commission sitting in Washington, and a referendum vote is entitled to great weight in this connection. *Cleveland Passenger Terminal Case*, 342 (350).

**REFRIGERATOR COMPANIES.** See **DESPATCH COMPANIES.**

**REFRIGERATOR EQUIPMENT.**

*Great Northern Ry. Co.*, authority to sell equipment gold notes in connection with the procurement of refrigerator cars, granted. *Equipment Notes of G. N. Ry.*, 381.

**REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL.**

*Alabama & Mississippi R. R. Co.* (R. V. Taylor, receiver), which sustained a deficit in its railway operating income while under private operation in the Federal control period, found to be a "carrier" subject to section 204 of the transportation act, 1920. Amount payable in reimbursement of deficit sustained during Federal control ascertained, which will be certified in partial liquidation of an amount due to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness, and final settlement made. *Deficit Settlement with Receiver of A. & M. R. R.*, 432.

**REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL—Contd.**

The following roads which sustained deficits in railway operating income while under private operation in the Federal control period found to be "carriers" subject to section 204 of the transportation act, 1920. Amounts payable in reimbursement of deficits sustained during Federal control ascertained from which there is deductible a certain amount as due to the President on account of traffic balances and other indebtedness, and final settlement made:

Marietta & Vincent R. R. Co., 488.

Middle Tennessee R. R. Co., 177.

**RENEWAL OF NOTES.** *See NOTES.*

**RENT NOTES.** *See NOTES.*

**RETIREMENTS.**

It is not proper in determining amounts payable under the guaranty, under section 209 of the transportation act, to take into consideration differences in cost of labor and materials which would not have affected the accounts if guaranty-period conditions had been substituted for those of the test period, and neither depreciation nor retirement accounts will be adjusted for such differences. In fixing maximum maintenance allowances for the guaranty period, charges representing depreciation and retirements will be computed upon the same bases as those which were used during an average six months of the test period. Maintenance Expenses under Section 209, 115 (127).

**RETURN ON INVESTMENT.** *See GUARANTY; STANDARD RETURN.*

**ROADWAY.** *See WAY AND STRUCTURES.*

**SECTION 1.**

Proposed contracts granting trackage rights only held not to be within the scope of paragraph (18) of section 1 of the act, and authority from the Commission to exercise the rights thereunder is unnecessary. Cleveland Passenger Terminal Case, 342 (346); 659 (662).

**SECTION 5.**

The word "consolidate" is not used in paragraph (6) of section 5 in a narrow sense, but the language of the paragraph is broad enough to cover any form of union under which "properties theretofore in separate ownership, management, and operation" pass into the possession of a single corporation for ownership, management, and operation. Securities Application of P. & W. V. Ry., 682 (684).

It is definitely and unmistakably provided under paragraph (1) of section 5 of the act that an agreement for the pooling of freights or the division of earnings shall be unlawful unless and until it receives the specific approval of the Commission. *Id.* (685).

When, as in paragraph (6) of section 5 of the act, it is provided that "it shall be lawful" to consolidate under certain conditions, this is but another way of saying that consolidations in disregard of those conditions shall be unlawful. And in like manner, when it is provided, as in paragraph (2) of that section, that the Commission may authorize the acquisition of one carrier or control of another in any manner falling short of consolidation, whenever such acquisition "will be in the public interest," this is equivalent to saying that authority for the acquisition shall not exist under other conditions. *Id.* (688).

**SECTION 5—Continued.**

If it had been intended that the provisions of section 5 of the act should merely afford a means of escaping from the restraints of the "antitrust laws" and other State or Federal statutes, much simpler machinery would have been devised for accomplishing the purpose. The "plan of consolidation" is incompatible with such an interpretation of the section and embodies a policy of far greater breadth and vision. *Id.* (688).

**SECURITIES.****In General:**

While it is within the Commission's province to authorize the extension by indorsement of the maturity of receiver's certificates, it is not to be understood that by giving such authority the Commission passes upon or in anywise determines or affects the nature of the rights of liens to be enjoyed under said certificates or the priority of said certificates in relation to any other liens. *Receiver's Certificates of M., K. & T. Ry.*, 76 (77).

The judgment of a court of competent jurisdiction can not be made the subject of collateral attack before the Commission in a proceeding involving a proposed issue of stock. *Stocks of Denver & Rio Grande Western R. R.*, 102 (106).

Proposed sale of bonds at not less than 80 per cent of par, without cost of the issue and sale, found to result in an excessive cost to applicant. Issue of such bonds authorized only upon condition that they be sold to net not less than 90 per cent of par. *Bonds of Alabama, Florida & Gulf R. R.*, 238 (239).

The pledging of bonds as security for notes should be in a ratio based on the prevailing market price of the bonds rather than on their par value. *Bonds of C., R. I. & P. Ry.*, 316 (317).

Carrier sought authority to issue stock dividends from time to time, as further expenditures shall be made from income for additions and betterments, thus capitalizing such expenditures. *Held*: Authority therefor should be requested when such expenditures have been made. *Securities Application of D. & T. S. L. R. R.*, 322 (323).

A transfer of stock from one party to another does not fall within the purview of the act, and authorization therefor by the Commission is not required. *Stock of Valley & Siletz R. R.*, 556.

Bonds, in which savings banks may invest under the laws of the State of New York, sell more readily and at higher prices than other bonds. *Securities of Louisville & Nashville R. R.*, 749 (751).

Delivery of a note by a subsidiary to a proprietary company, without complying with the provisions of section 20a of the act which provides that it shall be unlawful for any carrier to issue any securities, even though permitted by the authority creating it, unless authorized by the Commission, is, by the plain terms of the statute, void, and no means are provided for validating it. It is not an obligation of the carrier, and may not be carried on its books as such. *Notes of St. L., S. F. & T. Ry.*, 827 (828).

*Ahukini Terminal & Ry. Co. (Ltd.)*, authority to issue and sell capital stock, the proceeds thereof to be used in constructing and equipping a railroad on the island of Kauai, Territory of Hawaii, pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 198, granted. *Stock of A. T. & Ry. Co.*, 509.

**SECURITIES—Continued.**

**Alabama, Florida & Gulf R. R. Co.,** authority to issue first-mortgage sinking-fund gold bonds, the proceeds to be used in constructing extensions heretofore authorized in 70 I. C. C., 53, granted. Bonds of A., F. & G. R. R., 238.

**Alabama Great Southern R. R. Co.,** authority to procure authentication and delivery of first consolidated mortgage gold bonds, for the purpose of reimbursing its treasury for expenditures incurred in double-tracking its line from Wauhatchie, Tenn., to Meridian, Miss., granted. Bonds of A. G. S. R. R., 800.

**Alabama, Tennessee & Northern R. R. Corp.,** authority to issue prior-lien mortgage gold bonds; to issue equipment trust notes in connection with the lease of certain equipment; and to pledge aforesaid bonds and notes as security for a loan under section 210 of the transportation act, 1920, granted. Securities of A., T. & N. R. R., 675.

**Americus & Atlantic R. R. Co.,** application for authority to issue stock and bonds to be used in the payment of the purchase price of a certain railroad dismissed. Applicant failed to furnish information or any part thereof requested by the Commission on a questionnaire or list of interrogatories designed to elicit from the applicant information with respect to the application. Securities of A. & A. R. R., 757.

**Ann Arbor R. R. Co.,** authority to issue 6 per cent bonds under its improvement and extension mortgage as amended; part of said bonds to be pledged in substitution for a like amount of 5 per cent bonds issued under its original improvement and extension mortgage, and part in exchange for a like amount of 5 per cent bonds now held in its treasury, granted. Bonds of A. A. R. R., 36.

**Aransas Harbor Terminal Ry.,** authority to issue prior-lien gold notes, said notes to be pledged with the Secretary of the Treasury as security for a loan from the United States, approved in 70 I. C. C., 203, granted. Notes of A. H. T. Ry., 429.

**Arcade & Attica R. R. Corp.,** authority to issue a promissory note to secure funds with which to pay outstanding maturing notes the proceeds of which were used to pay indebtedness incurred for interchange of freight with other carriers; and to issue first-mortgage gold bonds, and pledge same as collateral security for said note, granted. Securities of A. & A. R. R. Corp., 82.

**Arkansas & Louisiana Missouri Ry. Co.,** authority to issue capital stock, the proceeds thereof to be used in acquiring and rebuilding the property formerly owned by the Arkansas & Louisiana Midland Ry. Co., extending from Monroe, La., to Crossett, Ark., granted. Stock of A. & L. M. Ry., 58.

**Ashland Coal & Iron Ry. Co.,** authority to issue promissory note payable to the Ashland Iron & Mining Co. to cover current indebtedness now carried in open account; and to issue, from time to time, promissory notes in renewal thereof, granted. Notes of A. C. & I. Ry., 656.

**Baltimore & Ohio & Chicago R. R. Co. (Ohio and Indiana),** a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**SECURITIES—Continued.****Baltimore & Ohio R. R. Co.:**

Authority to issue refunding and general mortgage bonds, for pledge and repledge from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization having first been obtained, granted. Bonds of B. & O. R. R. and Subsidiaries, 90.

Authority to issue first-lien and refunding mortgage bonds, said bonds to be pledged and repledged, from time to time, until otherwise ordered, as collateral security for any note or notes which it may issue under paragraph (9) of section 20a of the interstate commerce act without the Commission's authorization therefor having first been obtained, granted. Bonds of B. & O. R. R., 407.

Baltimore & Ohio R. R. Co. in Pennsylvania, a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Baltimore & Ohio Southwestern R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Buffalo, Rochester & Pittsburgh Ry. Co., upon supplemental report, authority granted to sell consolidated mortgage bonds the issue of which has heretofore been authorized in 67 I. C. C., 636. Bonds of B., R. & P. Ry., 703.

Bullfrog Goldfield R. R. Co., authority to deliver new first-mortgage 5 per cent bonds in exchange, par for par, for a like aggregate amount of first-mortgage 6 per cent bonds and second-mortgage income bonds now outstanding; and new first-mortgage 5 per cent bonds, at par, in partial satisfaction of unpaid interest accrued on outstanding first-mortgage bonds, granted. Bonds of B. G. R. R., 854.

Burlington, Cedar Rapids & Northern Ry. Co., authority to sell consolidated first-mortgage bonds to the Chicago, Rock Island & Pacific Ry. Co., granted. The Rock Island proposes to supply the funds with which to pay off and retire outstanding first-mortgage bonds and to accept the consolidated first-mortgage bonds in reimbursement of the cash thus advanced. Bonds of B., C. R. & N. Ry. and C., R. I. & P. Ry., 489.

Cambria & Indiana R. R. Co., authority to issue a one-year promissory note, said note to be sold at not less than 99 per cent of par and accrued interest and the proceeds applied toward the payment of two-year gold notes which have matured; and to pledge as collateral security therefor general-mortgage bonds, granted. Securities of C. & I. R. R., 422.

Carolina, Clinchfield & Ohio Ry., authority to extend the maturity date of first-mortgage gold notes; and to pledge them, together with first-mortgage gold bonds, as security for a loan under section 210 of the transportation act, 1920, granted. Securities of C., C. & O. Ry., 886.



## SECURITIES—Continued.

## Central Vermont Ry. Co.:

Authority to procure authentication and delivery to applicant's treasurer of refunding-mortgage gold bonds, in order that it may reimburse its treasury for expenditures therefrom in payment of equipment gold notes, granted, such bonds not to be sold, pledged, repledged, or otherwise disposed of until ordered by the Commission. Bonds of C. V. Ry., 443.

Upon supplemental report, authority to pledge refunding-mortgage gold bonds with the Secretary of the Treasury as part collateral security for a loan from the United States heretofore authorized in 70 I. C. C., 572, granted. Bonds of C. V. Ry., 585; 592.

## Charles City Western Ry. Co.:

Authority to issue first-mortgage gold notes, to pledge part hereof as collateral security for a loan from the United States, and to sell the remainder and use the proceeds thereof to retire certain notes and reimburse its treasury for moneys expended on capital account, granted. Notes of C. C. W. Ry., 85.

Upon supplemental report and further consideration of sections 1611 and 2049 of the Iowa Code, and the construction of said statutes by the supreme court of the state of Iowa in *Barnes v. Eastern Iowa Ry. Co.*, 155 Iowa, 721, authority to issue and sell first-mortgage gold notes in addition to those authorized in 70 I. C. C., 85, granted. Notes of C. C. W. Ry., 286.

## Chesapeake &amp; Ohio Ry. Co.:

Authority to nominally issue first-lien and improvement bonds in respect of expenditures made for refunding and construction, and, as the right thereto shall accrue, for additions and betterments; and to pledge part of said bonds as collateral security for loans from the United States under section 210 of the transportation act, 1920, granted. Bonds of C. & O. Ry., 228.

Authority to assume the obligation of the Chesapeake & Ohio Northern Ry. Co. to pay the principal and interest of its first-mortgage gold bonds, granted. Acquisition of C. & O. N. Ry. by C. & O. Ry., 550.

Authority to assume obligation and liability, as lessee, in respect of first-mortgage gold bonds of the Chesapeake & Ohio Ry. Co., of Indiana, by agreeing to pay the principal and interest of said bonds; to perform all the covenants and conditions of the mortgage securing them; and to indemnify and hold the lessor harmless from forfeiture or liability by reason of any breach of such covenants and conditions, granted. Lease of C. & O. Ry. of Indiana by C. & O. Ry. Co., 694.

Chicago & Eastern Illinois Ry. Co., upon supplemental report, order issued in 67 I. C. C., 61, modified by changing the amounts of securities authorized to be issued, and obligations or liabilities authorized to be assumed. Securities of C. & E. I. Ry., 589.

Chicago & Illinois Western R. R., authority to issue and deliver noncumulative preferred capital stock in liquidation of interest-bearing indebtedness, granted. Stock of C. & I. W. R. R., 652.

## Chicago &amp; North Western Ry. Co.:

Authority to procure authentication and delivery to applicant's treasurer of general-mortgage gold bonds, on account of expenditures made in the payment and retirement of certain underlying bonds, granted. Bonds of C. & N. W. Ry., 758.



**SECURITIES—Continued.****Chicago & North Western Ry. Co.—Continued.**

Authority to procure authentication and delivery to applicant's treasurer of general-mortgage gold bonds and of first and refunding mortgage gold bonds for the purpose of reimbursing its treasury in part for money expended out of income in the construction of additions, betterments, and improvements, said bonds to be held in the treasury until further order of the Commission, granted. Bonds of C. & N. W. Ry., 762.

Chicago, Indianapolis & Louisville Ry. Co., authority to issue first and general mortgage gold bonds in exchange for an equal amount of other bonds; to sell part of said bonds for purpose of reimbursing its treasury for expenditures for additions and betterments; and to pledge and repledge, from time to time, the remainder of said bonds as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act, without the Commission's authorization therefor having first been obtained, granted. Bonds of C. I. & L. Ry., 803.

**Chicago, Milwaukee & St. Paul Ry. Co.:**

Authority granted to assume, as lessee, obligation and liability in respect of the payment of the principal and interest of equipment bonds, promissory notes, first and refunding mortgage bonds, and income-mortgage bonds of the Chicago, Terre Haute & S. E. Ry. Co.; and of first-mortgage bonds of the Bedford Belt Ry. Co. and Southern Indiana Ry. Co. Acquisition of C., T. H. & S. E. Ry., by C., M. & St. P. Ry., 20.

Upon supplemental report, authority to assume, as lessee, the obligation or liability of the Chicago, Terre Haute & S. E. Ry. Co. in respect of the payment of the principal and interest of first and refunding mortgage gold bonds, in accordance with the terms of an indenture of lease made by and between the applicants, granted. Former report 70 I. C. C., 20. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 594.

**Chicago, Rock Island & Pacific Ry. Co.:**

Authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury interests and equities in certain bonds to secure the repayment of the loan, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corp.'s equipment trust, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of C., R. I. & P. Ry., 61.

**SECURITIES—Continued.****Chicago, Rock Island & Pacific Ry. Co.—Continued.**

Authority to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of first-mortgage gold bonds of the Rock Island, Arkansas & Louisiana R. R. Co., granted. Authorized issue is to be used in full payment for moneys advanced for improvements and additions. Assumption of Obligation by C., R. I. & P. Ry Co., 80.

Authority to pledge and repledge, from time to time, all or part of first and refunding mortgage gold bonds (now pledged without the Commission's authorization) as collateral security for certain outstanding short-term notes, or for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of C., R. I. & P. Ry., 316.

Upon supplemental report, former report 70 I. C. C., 80, authority to assume obligation or liability as guarantor by indorsement in respect of the payment of principal and interest of first-mortgage gold bonds of the St. Paul & Kansas City Short Line R. R. Co., granted. Since the St. Paul has no credit the applicant's guaranty will result in the creation of a market for the bonds. Applicant proposes to hold these bonds in its treasury to be pledged as collateral security for such short-term loans as it may find necessary to make until their market price shall improve. Assumption of Obligation by C., R. I. & P. Ry., 493.

Authority to procure authentication and delivery to its treasurer of first and refunding mortgage gold bonds and to pledge and repledge from time to time all or any part thereof as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of B., C. R. & N. Ry. and C., R. I. & P. Ry., 499.

Chicago, St. Louis & New Orleans R. R. Co. and Illinois Central R. R. Co., authority granted to issue joint first refunding mortgage bonds to reimburse the treasury of the Illinois Central for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans R. R. Co. and the Canton, Aberdeen & Nashville R. R. Co., and to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained. Bonds of I. C. and C., St. L. & N. O. R. R., 277.

Chicago, Terre Haute & S. E. Ry. Co., upon supplemental report, authority to issue first and refunding mortgage gold bonds; said bonds to be delivered to the C., M. & St. P. Ry. Co. to reimburse it for the payment of certain obligations in accordance with the terms of an indenture of lease made by and between the applicants, granted. Former report, 70 I. C. C., 20. Acquisition of C., T. H. & S. E. Ry. by C., M. & St. P. Ry., 594.

**SECURITIES—Continued.**

**Chicago Union Station Co.,** authority to issue first-mortgage bonds, the proceeds to be used solely in the construction of its union passenger station and facilities at Chicago, Ill., granted. Bonds of Chicago Union Station Co., 191.

**Cisco & Northeastern Ry. Co.,** authority to issue for sale, at par, capital stock; and to issue first-mortgage gold bonds, part thereof to be used to pay certain promissory notes and accrued interest thereon; and the remainder to be sold at not less than 80 per cent of par, and/or to be pledged as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act; the proceeds to be applied to the costs of constructing and equipping applicant's line, and of additions, betterments, and extensions thereto, granted. Securities of C. & N. E. Ry., 260.

**Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.,** authority to issue refunding and improvement mortgage bonds; said bonds to be pledged as collateral security for a promissory demand note issued by applicant to the Director General of Railroads in payment of its indebtedness to the United States for additions and betterments made to its property during the period of Federal control, granted. Bonds of C., C., C. & St. L. Ry., 473.

**Cumberland & Manchester R. R. Co.:**

Authority to pledge first-mortgage gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States, granted. Securities, etc., of C. & M. R. R., 9.

Authority to issue and sell general-mortgage gold bonds, the proceeds thereof to be used for additions and betterments to road and equipment, granted. Id. (9).

Authority to assume obligation or liability in respect of the payment of the principal and interest of promissory notes issued in connection with the construction of the Horse Creek R. R., granted. Id. (9).

Authority to assume obligation or liability in respect of equipment-trust certificates by entering into an equipment-trust agreement under which the certificates will be issued by the Union Trust Co. of Pittsburgh; by indorsing upon each certificate its guaranty of the payment of the principal and dividends thereof; and by entering into a lease of the trust equipment, thereby agreeing to pay rent sufficient to pay the principal and dividends of such certificates, granted. Id. (9).

Authority to assume obligation or liability in respect of the payment of unpaid principal and interest of three promissory notes issued in connection with the purchase of certain equipment, granted. Id. (9).

**Denver & Rio Grande Western R. R. Co.,** authority to issue common capital stock without nominal or par value, granted. Stock of D. & R. G. W. R. R., 102.

**Detroit & Toledo Shore Line R. R. Co.,** proposed issues of capital stock as dividends held not compatible with the public interest and application denied. Evidence fails to establish satisfactorily that the value of the road and equipment, plus a proper sum for working capital and for materials and supplies, exceeds or equals the present capitalization. Securities Application of D. & T. S. L. R. R., 322.

**SECURITIES—Continued.**

Duluth, Missabe & Northern Ry. Co., authority to issue general-mortgage gold bonds for the purpose of refunding a like amount of maturing first-division mortgage bonds, granted. Bonds of D., M. & N. Ry., 708.

East St. Louis Junction R. R. Co., authority to issue at par a demand note, or notes, payable to the St. Louis National Stock Yards for advances made by that company to applicant to meet pay rolls, granted. Notes of E. St. L. J. R. R., 420.

El Paso & Southwestern Co.:

Authority to issue capital stock without par value, in exchange for and retirement of all capital stock now outstanding, granted. Stock of E. P. & S. W. Co., 208.

Authority to issue short-term promissory notes to be delivered directly or to be sold at par, the proceeds thereof to be used in part payment of the purchase price of all the outstanding stock and bonds of the Arizona & New Mexico Ry. Co., granted. Acquisition of Control, etc., by E. P. & S. W. Co., 795.

Fairmount, Morgantown & Pittsburgh R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in retiring outstanding notes; in paying indebtedness incurred in the maintenance of service; in repairing and replacing the right of way which was very severely damaged by floods; and in creation of a larger working capital to enable it to maintain and improve its service, granted. Notes of F. V. R. R., 524.

Flint Belt R. R. Co., authority to sell capital stock, the proceeds thereof to be used in constructing and equipping a line of railroad pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 292, and as working capital, granted. Stock of F. B. R. R., 296.

Fort Smith & Western Ry. Co., authority to issue common stock without par value, and first and second mortgage bonds, which securities applicant proposes to exchange for first-mortgage bonds of the old Ft. Smith & Western R. R. Co., and to use the last-mentioned bonds for the purpose of acquiring at a mortgage-foreclosure sale all of the property, assets, and franchises of the old company, granted. Securities of Ft. S. & W. Ry., 777.

Fort Worth & Denver City Ry. Co., authority to extend maturity date of first-mortgage bonds, granted. Bonds of Ft. W. & D. C. Ry., 603.

Fort Worth & Rio Grande Ry. Co., authority to issue a promissory note payable on demand to the St. Louis-San Francisco Ry. Co. or order in respect of expenditures for additions and betterments made by that company to applicant's property, granted. Note of Ft. W. & R. G. Ry., 833.

Gainesville & Northwestern R. R. Co., authority to issue first-mortgage bonds, and to pledge them as security for a loan from the United States for the purpose of liquidating part of its indebtedness, granted. Bonds of G. & N. W. R. R., 843.

Georgia R. R. & Banking Co., authority to issue and sell debenture bonds; the proceeds thereof to be used in connection with other funds to pay off and retire a like amount of plain debentures now outstanding, granted. Debentures of G. R. R. & B. Co., 467.

**SECURITIES—Continued.****Great Northern Ry. Co.:**

Authority to sell equipment gold notes in connection with the procurement of refrigerator cars, granted. Equipment Notes of G. N. Ry., 381.

Authority to pledge in lieu of, and in substitution for, the collateral now pledged as security for the loan authorized in 65 I. C. C., 78, consisting of first and refunding mortgage gold bonds, applicant's general-mortgage gold bonds, granted. Loan to G. N. Ry., 438.

Huntingdon & Broad Top Mountain R. R. & Coal Co., authority to assume obligations and liability in respect of equipment-trust certificates to be issued under the Huntingdon & Broad Top rolling-equipment trust in connection with the procurement of locomotives and all-steel passenger-train cars, granted. H. & B. T. Rolling-Equipment Trust, 178.

**Illinois Central R. R. Co.:**

Authority to issue and sell secured gold bonds to secure funds to meet certain maturing indebtedness, and to pledge as collateral security therefor certain refunding mortgage bonds of the applicant and the Chicago, St. Louis & New Orleans R. R. Co., granted. Bonds of I. C. R. R. Co., 274.

Together with Chicago, St. Louis & New Orleans R. R. Co., authority granted to issue joint first refunding mortgage bonds to reimburse the treasury of the Illinois Central for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans R. R. Co. and the Canton, Aberdeen & Nashville R. R. Co., and to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained. Bonds of I. C. and C., St. L. & N. O. R. R., 277.

International & Great Northern Ry. Co., authority to deliver notes to the Baldwin Locomotive Works in part payment for eight locomotives; and to pledge receiver's certificates with the Secretary of the Treasury as security for a loan from the United States, granted. Certificates of Receiver of I. & G. N. Ry., 384.

Interstate R. R. Co., authority granted to issue and sell capital stock, the proceeds thereof to be used for the purchase of property for, and the construction of, an extension of its railway heretofore approved and authorized in 67 I. C. C., 141. Stock of Interstate R. R., 7.

Jackson & Eastern Ry. Co., authority to issue and sell first-mortgage bonds for the purpose of reimbursing its treasury for expenditures heretofore made for additions and betterments and not yet capitalized, granted. Bonds of J. & E. Ry., 495.

Jacksonville Terminal Co., upon supplemental report, authority to issue a promissory note in renewal of a maturing promissory note, the issue of which has heretofore been authorized in 65 I. C. C., 415, granted. Notes of J. T. Co., 526.

Kansas City, Mexico & Orient R. R. Co., upon supplemental report, authority granted to issue a receiver's certificate for pledge with the Secretary of the Treasury as security for a loan from the United States heretofore granted in 65 I. C. C., 283. Certificate of Receiver of K. C., M. & O. R. R., 646.

**SECURITIES—Continued.**

**Kansas, Oklahoma & Gulf Ry. Co.**, upon supplemental report, former report 65 I. C. C., 672, authority granted to issue cumulative income bonds for the purpose of taking up, acquiring, or otherwise satisfying or liquidating certain claims against the Missouri, Oklahoma & Gulf Ry. Co., and the Missouri, Oklahoma & Gulf R. R. Co., which claims existed prior to receivership and which have been recommended for allowance by the special master in accordance with the provisions of the plan of adjustment adopted by the court having jurisdiction of the receivership proceedings. Securities of K., O. & G. Ry., 78.

**Lake Erie, Franklin & Clarion R. R. Co.**, upon supplemental report, authority to issue, from time to time, promissory notes in renewal of a promissory note, the issue of which has heretofore been authorized in 67 I. C. C., 639, 641, granted. Note of L. E., F. & C. R. R., 255.

**Lancaster & Chester Ry. Co.**, authority to enter into an agreement with the holder of first-mortgage gold bonds for the extension of the maturity date, and to increase the rate of interest thereon from 5 to 7 per cent per annum, granted. Bonds of L. & C. Ry., 280.

**Leavenworth & Topeka R. R. Co.:**

Authority to issue first-mortgage bonds; part thereof to be delivered to certain persons in part payment for equitable or contingent interests held by them in and to the line of railroad operated by applicant; part to be sold for the purpose of reimbursing the treasury for a like amount in cash heretofore expended in part payment for such equitable or contingent interest; and the remainder to be deposited with the Central Trust Co., of Topeka, Kans., for the purpose of creating a sinking fund as required by the laws of Kansas, granted. Bonds of L. & T. R. R., 288.

Authority to issue common capital stock to the Leavenworth & Topeka R. R. Aid Benefit Districts of Leavenworth and Jefferson Counties, Kans., in exchange for a like amount of aid bonds issued to the applicant by those districts, granted. Stock of L. & T. R. R., 632.

**Long Fork Ry. Co.**, a subsidiary of the Baltimore & Ohio R. R. Co., granted authority to issue capital stock and first-mortgage bonds for delivery to the B. & O. in settlement for advances made for capital purposes. Securities of L. F. Ry., 330.

**Louisville & Nashville R. R.**, authority to issue and sell first and refunding mortgage gold bonds for purpose of reimbursing its treasury for expenditures for additions and betterments, and for purpose of retiring first-mortgage bonds of certain predecessor companies, granted. Securities of L. & N. R. R., 749.

**Manchester & Oneida Ry. Co.**, authority to issue new first-mortgage 6 per cent bonds, to be exchanged, par for par, for a like aggregate amount of first-mortgage 5 per cent bonds now outstanding, granted. Bonds of M. & O. Ry. Co., 672.

**Milledgeville Ry. Co.**, authority to issue common capital stock and to exchange said stock for a like amount of applicant's outstanding first-mortgage bonds, granted. Proposed issue and substitution of stock for bonds would result in no net increase in capitalization and would relieve applicant from interest charges. Stock of Milledgeville Ry., 476.



**SECURITIES—Continued.****Minneapolis & St. Louis R. R. Co.:**

Upon supplemental report, former report 67 I. C. C., 362, authority granted to issue refunding and extension mortgage gold bonds for the purpose of reimbursing its treasury for expenditures made for retirement of equipment obligations and for additions and betterments to roadway and structures. Bonds of M. & St. L. R. R., 56.

Authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury refunding and extension mortgage gold bonds, and interests and equities in certain other bonds to secure the repayment of the loan, and any obligation evidencing the same, and the performance of said obligation of indorsement, and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corp.'s equipment-trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of M. & St. L. R. R., 67.

Upon supplemental report, authority granted to pledge and repledge from time to time all or any part of refunding and extension mortgage gold bonds, issue of which was authorized in 70 I. C. C., 56, as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having been first obtained. Bonds of M. & St. L. R. R., 242.

**Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.:**

Authority to issue first consolidated mortgage bonds to be used in part payment for the property of the Wisconsin & Northern R. R. Co., granted. Acquisition of W. & N. R. R. Ry. by M., St. P. & S. S. M. Ry., 31.

Authority to issue and sell collateral-trust gold bonds; to issue and pledge as collateral security therefor first refunding mortgage bonds; and to procure authentication and delivery to applicants' treasurer first refunding mortgage bonds, to be held in the treasury until further order of the Commission, granted. Securities of M., St. P. & S. S. M. Ry., 453.

Missouri, Kansas & Texas Ry. Co. of Texas, authority to extend by indorsement the maturity of receiver's certificates issued for the purpose of obtaining funds to meet necessary expenses of operation, granted. Receiver's Certificates of M., K. & T. Ry., 76.

Missouri Pacific R. R. Co., authority to issue from time to time first and refunding mortgage bonds, by selling said bonds, or any part thereof, at not less than 90 per cent of their face value, or by pledging and repledging the same, or any part thereof, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act, granted. Bonds of M. P. R. R., 221.



**SECURITIES—Continued.**

**New Orleans, Texas & Mexico Ry. Co.,** authority to issue first-mortgage bonds as collateral security for a note payable to the Columbia Trust Co., within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization having first been obtained, granted. Bonds of N. O., T. & M. Ry., 271.

**New York Central R. R. Co.:**

Authority to issue 4 per cent consolidation mortgage bonds in exchange, par for par, for a like amount of New York Central & Hudson River R. R. Co.'s 3½ per cent Lake Shore collateral bonds, granted. Bonds of N. Y. C. R. R., 282.

Authority to issue refunding and improvement mortgage bonds, and to pledge them with the Director General of Railroads as security for a demand note given in payment of indebtedness to the United States for additions and betterments made to its property and leased lines during Federal control, granted. Bonds of N. Y. C. R. R., 598.

**New York, New Haven & Hartford R. R. Co.:**

Application for authority to execute a certain indemnity bond to the present stockholders of the Fruit Growers Express Co., dismissed for want of jurisdiction. Indemnity Bond of N. Y., N. H. & H. R. R., 517.

Upon supplemental report, authority to sell equipment-trust notes, the proceeds to be used toward payment of promissory notes the issue of which has heretofore been authorized in 65 I. C. C., 289, and for which the equipment-trust notes have been pledged as collateral security, granted. Notes of N. Y., N. H. & H. R. R., 540.

Authority to assume obligation or liability in respect of a note to cover part of the consideration for the purchase of a certain tract of land in the city of Waterbury, Conn., granted. Assumption of Obligation by N. Y., N. H. & H. R. R., 625.

**Norfolk & Portsmouth Belt Line R. R. Co.:**

Authority to issue a one-year promissory note at an increased rate of interest, in renewal for the unpaid amount of a maturing promissory note, granted. Note of N. & P. B. L. R. R., 182.

Authority to issue a promissory note in renewal of a note for a similar amount; and to issue, from time to time, notes in renewal thereof, for like amounts, granted. Notes of N. & P. B. L. R. R., 379.

**Oklahoma & Arkansas Ry. Co.,** authority to issue capital stock to a contractor for the construction of a line of railroad extending from a point on the Kansas, Oklahoma & Gulf R. R., near Salina, Okla., to Kansas, Okla., certificate for which was authorized in 70 I. C. C., 448, and for one steam locomotive, granted. Stock of O. & A. Ry., 460.

**Oregon-Washington R. R. & Navigation Co.,** authority to assume additional liability, for a consideration, by the modification of the tax covenant of its outstanding first and refunding mortgage bonds, granted. Bonds of O.-W. R. R. & Nav. Co., 99.

**Pearl River Valley R. R. Co.,** authority to issue, from time to time, unsecured promissory notes in renewal of certain outstanding notes, granted. Notes of P. R. V. R. R., 340.

**Pittsburgh & Western R. R. Co.,** a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**SECURITIES—Continued.**

**Pittsburgh & West Virginia Ry. Co.,** application under section 20a of the act to issue capital stock and to assume obligation and liability in respect of certain securities in connection with the purchase of the property and franchises of the West Side Belt R. R. Co., denied. Such proposed stock issue and assumption of obligation and liability are for the purpose of purchase by the Pittsburgh and sale by the Belt of the property and franchises of the latter, which can not lawfully be accomplished without the Commission's authority under the provisions of section 5 of the act. Securities Application of P. & W. V. Ry., 682.

**Pittsburgh Junction R. R. Co.,** a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**Rock Island, Arkansas & Louisiana R. R. Co.,** authority to issue first-mortgage gold bonds, and to deliver them to the C., R. I. & P. Ry. Co. in reimbursement of advances for additions and betterments to applicant's line, granted. Bonds of R. I., A. & L. R. R., 17.

**St. Louis, San Francisco & Texas Ry. Co.,** authority to issue two promissory notes, each to be payable on demand to the St. Louis-San Francisco Ry. Co. or order, and to be delivered to that company in respect of expenditures for certain additions and betterments to applicant's property, granted. Notes of St. L., S. F. & T. Ry., 827.

**St. Louis-San Francisco Ry. Co.:**

Authority to issue prior-lien mortgage bonds to be pledged and repledged, from time to time, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of St. L. & S. F. Ry., 537.

Authority to issue prior-lien mortgage bonds to be pledged and repledged, from time to time, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act, without the Commission's authorization therefor having first been obtained, granted. Bonds of St. L.-S. F. Ry., 792.

**St. Paul & Kansas City Short Line R. R. Co.,** authority to issue first-mortgage bonds and to deliver them to the C., R. I. & P. Ry. Co., in reimbursement of advances for additions and betterments, granted. Bonds of St. P. & K. C. S. L. R. R., 491.

**San Antonio & Aransas Pass Ry. Co.,** authority to execute and deliver, at par, to the General Equipment Co. (Inc.), equipment notes in connection with the procurement of certain equipment, granted. Equipment Notes of S. A. & A. P. Ry., 319.

**San Diego & Arizona Ry. Co.,** authority to issue two one-day promissory notes, one payable to the Southern Pacific Co. and the other to the J. D. & A. B. Spreckles Securities Co., to cover certain indebtedness of the applicant for advances made by those companies, granted. Notes of S. D. & A. Ry., 39.

**Schnylkill River East Side R. R. Co.,** a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**SECURITIES—Continued.**

**Sewell Valley R. R. Co.,** authority to issue first-mortgage gold bonds for the purpose of paying indebtedness in open account incurred in the purchase of coal cars, and to reimburse its treasury in part for money expended in the purchase of a locomotive, granted. Bonds of S. V. R. R., 765.

**Southern Pacific Co.,** authority to assume obligation or liability as guarantor by indorsement in respect of the principal and interest on first-mortgage bonds of the Houston East & West Texas Ry. Co., granted. Assumption of Obligation by S. P. Co., 88.

**Southern Ry. Co.:**

Authority to sell first consolidated mortgage gold bonds for the purpose of providing funds for the redemption of an equal amount of maturing first-mortgage bonds of the Georgia Pacific Ry. Co., granted. Bonds of S. Ry., 528.

Authority to procure authentication and delivery to applicant's treasurer of development and general-mortgage gold bonds, to be held in the treasury until further order of the Commission, granted. Bonds of S. Ry., 771.

**Springfield Terminal Ry. Co.,** authority to issue capital stock at par for cash, the proceeds thereof to be used to pay certain indebtedness on capital account incurred in connection with the construction of an extension of applicant's line, granted. Stock of S. T. Ry., 258.

**Tennessee & North Carolina Ry. Co.,** authority to issue common capital stock in payment for the railroad property formerly owned and operated by the Tennessee & North Carolina R. R. Co., granted. Stock of T. & N. C. Ry., 96.

**Terminal R. R. Asso. of St. Louis,** authority to pledge general-mortgage gold bonds with the Secretary of the Treasury as collateral security for the faithful performance of its contracts relating to repayment to the United States of any excess of advances over the amount of guaranty which may be finally certified pursuant to the provisions of section 209 of the transportation act, granted. Bonds of T. R. R. Asso. of St. Louis, 415.

**Texas City Terminal Ry. Co.,** authority to issue common capital stock and first-mortgage gold bonds, to be used in payment for the property formerly owned by the Texas City Transportation Co., which property applicant proposed to operate, granted. Securities of T. C. T. Ry. Co., 244.

**Toledo & Cincinnati R. R. Co.,** authority to issue first and refunding mortgage bonds to be delivered to the Baltimore & Ohio R. R. Co. and by it pledged with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage, granted. Bonds of B. & O. R. R., 407.

**Union Pacific R. R. Co.,** authority to assume obligation or liability in respect of certain bonds of the Oregon-Washington R. R. & Nav. Co., a subsidiary, by guaranteeing by indorsement the payment of principal and interest thereon, granted. Bonds of O.-W. R. R. & Nav. Co., 99.

**Union Terminal Co.,** authority to enter into agreements with the holders of unsecured notes for the extension of the maturity date thereof for a period of one year, granted. Applicant's financial condition is such as to preclude payment of the notes at maturity, and it must either extend the notes or borrow money to discharge the debt. Notes of U. T. Co., 195.

**SECURITIES—Continued.**

**Valley & Siletz R. R. Co.,** authority to issue capital stock, to be exchanged for outstanding notes and interest, granted. Effect of the transaction will be the substitution of capital stock for interest-bearing demand notes, a reduction in the annual interest charges, the elimination of the debit balance, and the reduction of interest unpaid. Stock of V. & S. R. R., 556.

**Washington County R. R. Co.,** a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**Waterloo, Cedar Falls & Northern Ry. Co.,** authority to issue and pledge general mortgage bonds as collateral security for loans; to issue and sell common stock; and to issue lease warrants in connection with the procurement of equipment, granted. Securities of W., C. F. & N. Ry., 370.

**Western Maryland Ry. Co.,** authority to procure authentication and delivery to applicant's treasurer of first and refunding mortgage gold bonds in order that it may reimburse its treasury for expenditures therefrom in payment for the acquisition of terminals, terminal facilities, and other property, and for extensions, betterments, and improvements, and also for the purchase and acquisition of new equipment and for improvements to existing equipment; and to pledge first and refunding mortgage gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States, granted. Bonds of W. M. Ry., 480.

**Western Pacific R. R. Co.,** authority to issue and sell first-mortgage bonds, the proceeds thereof to be applied to the redemption and payment of outstanding equipment gold notes, and to reimburse applicant in part for the payment of notes which became due, granted. Bonds of W. P. R. R., 622.

**West Tulsa Belt Ry. Co.,** authority to issue promissory notes, payable to the St. Louis-San Francisco Ry. Co. or order, and to be delivered to that company in respect of expenditures for certain additions and betterments made to applicant's property, granted. Notes of W. T. B. Ry., 830.

**Wheeling & Lake Erie Ry. Co.:**

Upon supplemental report, former report 70 I. C. C., 44, authority to issue refunding mortgage bonds for the purpose of pledging them with the Secretary of the Treasury as security for obligations arising under the National Ry. Service Corporation's equipment trust, granted. Bonds of W. & L. E. Ry., 41.

Authority to issue rent notes under a contract to be entered into pursuant to National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States; to pledge with the Secretary of the Treasury refunding mortgage bonds, and interests and equities in other bonds to secure the repayment of a loan to the Service Corporation, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to transfer, assign, and set over unto the Bankers Trust Co., trustee under the Service Corp.'s equipment-trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein, granted. Notes, etc., of W. & L. E. Ry., 44.

**SECURITIES—Continued.****Wheeling & Lake Erie Ry. Co.—Continued.**

Authority to pledge refunding-mortgage bonds with the Secretary of the Treasury as partial security for a loan from the United States, granted. Bonds of W. & L. E. Ry., 333.

Authority to issue refunding-mortgage bonds and to pledge said bonds with the Secretary of the Treasury as partial security for a loan under section 210 of the transportation act, 1920, granted. Bonds of W. & L. E. Ry., 518.

Authority to repledge refunding-mortgage bonds as collateral security for notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of W. & L. E. Ry., 521.

Wheeling, Pittsburgh & Baltimore R. R. Co., a subsidiary of the Baltimore & Ohio R. R. Co., authorized to issue various bonds upon the order of said proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**SECURITY.**

In General: The pledging of bonds as security for notes should be in a ratio based on the prevailing market price of the bonds rather than on their par value. Bonds of C., R. I. & P. Ry., 316 (317).

Alabama, Tennessee & Northern R. R. Corp., authority to issue prior-lien mortgage gold bonds; to issue equipment-trust notes in connection with the lease of certain equipment; and to pledge aforesaid bonds and notes as security for a loan under section 210 of the transportation act, 1920, granted. Securities of A., T. & N. R. R., 675.

Aransas Harbor Terminal Ry., authority to issue prior-lien gold notes, said notes to be pledged with the Secretary of the Treasury as security for a loan from the United States, approved in 70 I. C. C., 203, granted. Notes of A. H. T. Ry., 429.

Arcade & Attica R. R. Corp., authority to issue a promissory note to secure funds with which to pay outstanding maturing notes the proceeds of which were used to pay indebtedness incurred for interchange of freight with other carriers; and to issue first-mortgage gold bonds, and pledge same as collateral security for said note, granted. Securities of A. & A. R. R. Corp., 82.

**Baltimore & Ohio R. R. Co.:**

Authority to issue refunding and general mortgage bonds, for pledge and repledge from time to time, until otherwise ordered, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization having first been obtained, granted. Bonds of B. & O. R. R. and Subsidiaries, 90.

Authority to issue first-lien and refunding-mortgage bonds, said bonds to be pledged and repledged, from time to time, until otherwise ordered, as collateral security for any note or notes which it may issue under paragraph (9) of section 20a of the interstate commerce act without the Commission's authorization therefor having first been obtained, granted. Bonds of B. & O. R. R., 407.

Bangor & Aroostook R. R. Co., upon supplemental report, authority granted for the release of one-half of the collateral security hypothecated and pledged for a loan from the United States through the National Railway Service Corporation, to aid applicant in providing itself with equipment. Former report 67 I. C. C., 412. Loan to B. & A. R. R., 457.

**SECURITY—Continued.**

**Cambria & Indiana R. R. Co.**, authority to issue a one-year promissory note, said note to be sold at not less than 99 per cent of par and accrued interest and the proceeds applied toward the payment of two-year gold notes which have matured; and to pledge as collateral security therefor general-mortgage bonds, granted. Securities of C. & I. R. R., 422.

**Carolina, Clinchfield & Ohio Ry.**, authority to extend the maturity date of first-mortgage gold notes; and to pledge them, together with first-mortgage gold bonds, as security for a loan under section 210 of the transportation act, 1920, granted. Securities of C., C. & O. Ry., 836.

**Central Vermont Ry. Co.**, upon supplemental report, authority to pledge refunding mortgage gold bonds with the Secretary of the Treasury as part collateral security for a loan from the United States heretofore authorized in 70 I. C. C., 572, granted. Bonds of C. V. Ry., 585; 592.

**Charles City Western Ry. Co.**, authority to issue first mortgage gold notes, to pledge part thereof as collateral security for a loan from the United States, and to sell the remainder and use the proceeds thereof to retire certain notes and reimburse its treasury for moneys expended on capital account, granted. Notes of C. C. W. Ry., 85.

**Chesapeake & Ohio Ry. Co.**, authority to nominally issue first-lien and improvement bonds in respect of expenditures made for refunding and construction, and, as the right thereto shall accrue, for additions and betterments; and to pledge part of said bonds as collateral security for loans from the United States under section 210 of the transportation act, 1920, granted. Bonds of C. & O. Ry., 228.

**Chicago, Indianapolis & Louisville Ry. Co.**, authority to issue first and general mortgage gold bonds in exchange for an equal amount of other bonds; to sell part of said bonds for purpose of reimbursing its treasury for expenditures for additions and betterments; and to pledge and repledge, from time to time, the remainder of said bonds as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act, without the Commission's authorization therefor having first been obtained, granted. Bonds of C., I. & L. Ry., 803.

**Chicago, Rock Island & Pacific Ry. Co.:**

Authority granted to issue rent notes under the terms of a contract to be entered into pursuant to the National Ry. Service Corp.'s equipment-trust agreement: to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury interests and equities in certain bonds to secure the repayment of the loan, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corporation's equipment trust, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of C., R. I. & P. Ry., 61.



**SECURITY—Continued.****Chicago, Rock Island & Pacific Ry. Co.—Continued.**

Authority to pledge and repledge, from time to time, all or part of first and refunding mortgage gold bonds (now pledged without the Commission's authorization) as collateral security for certain outstanding short-term notes, or for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of C., R. I. & P. Ry., 316.

Authority to procure authentication and delivery to its treasurer of first and refunding mortgage gold bonds and to pledge and repledge from time to time all or any part thereof as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of B., C. R. & N. Ry. and C., R. I. & P. Ry., 499.

Upon supplemental report, certificate issued in 65 I. C. C., 371, approving a loan to aid in providing additions and betterments, amended so as to authorize the substitution in pledge for the Crawford County Mining Co. bond a like principal amount of first and refunding mortgage gold bonds, in order that said bond may be released to applicant, and by it turned in and canceled under a sinking-fund provision of the mortgage. Loan to C., R. I. & P. Ry., 788.

Chicago, St. Louis & New Orleans R. R. Co. and Illinois Central R. R. Co., authority granted to issue joint first refunding mortgage bonds to reimburse the treasury of the Illinois Central for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans R. R. Co. and the Canton, Aberdeen & Nashville R. R. Co., and to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained. Bonds of I. C. and C., St. L. & N. O. R. R., 277.

Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., authority to issue refunding and improvement mortgage bonds; said bonds to be pledged as collateral security for a promissory demand note issued by applicant to the Director General of Railroads in payment of its indebtedness to the United States for additions and betterments made to its property during the period of Federal control, granted. Bonds of C., C., C. & St. L. Ry., 473.

Cumberland & Manchester R. R. Co., authority to pledge first-mortgage gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States, granted. Securities, etc., of C. & M. R. R., 9.

Gainesville & Northwestern R. R. Co., authority to issue first-mortgage bonds, and to pledge them as security for a loan from the United States for the purpose of liquidating part of its indebtedness, granted. Bonds of G. & N. W. R. R., 843.

Great Northern Ry. Co., authority to pledge in lieu of, and in substitution for, the collateral now pledged as security for the loan authorized in 65 I. C. C., 78, consisting of first and refunding mortgage gold bonds, applicant's general-mortgage gold bonds, granted. Loan to G. N. Ry., 438.



**SECURITY—Continued.****Illinois Central R. R. Co.:**

Authority to issue and sell secured gold bonds to secure funds to meet certain maturing indebtedness, and to pledge as collateral security therefor certain refunding mortgage bonds of the applicant and the Chicago, St. Louis & New Orleans R. R. Co., granted. Bonds of I. C. R. R. Co., 274.

Together with the Chicago, St. Louis & New Orleans R. R. Co., authority granted to issue joint first refunding mortgage bonds to reimburse the treasury of the Illinois Central for advances made for additions and betterments to the properties of the Chicago, St. Louis & New Orleans R. R. Co., and the Canton, Aberdeen & Nashville R. R. Co., and to pledge and repledge said bonds from time to time as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained. Bonds of I. C. and C., St. L. & N. O. R. R., 277.

International & Great Northern Ry. Co., authority to pledge receiver's certificates with the Secretary of the Treasury as security for a loan from the United States, granted. Certificates of Receiver of I. & G. N. Ry., 384.

Kansas City, Mexico & Orient R. R. Co., upon supplemental report, authority granted to issue a receiver's certificate for pledge with the Secretary of the Treasury as security for a loan from the United States heretofore granted in 65 I. C. C., 283. Certificate of Receiver of K. C., M. & O. R. R., 646.

**Minneapolis & St. Louis R. R. Co.:**

Authority granted to assume obligation or liability as indorser and guarantor in respect of obligations of the National Ry. Service Corporation to the United States for a loan; to pledge with the Secretary of the Treasury refunding and extension mortgage gold bonds, and interests and equities in certain other bonds to secure the repayment of the loan, and any obligations evidencing the same, and the performance of said obligation of indorsement and guaranty; and to pledge with and/or transfer and assign to the Bankers Trust Co., trustee under the Service Corp.'s equipment-trust agreement, interests, and equities in certain securities subject to prior pledges, liens, interests, and equities therein. Equipment Notes of M. & St. L. R. R., 67.

Upon supplemental report, authority granted to pledge and repledge from time to time all or any part of refunding and extension mortgage gold bonds, issue of which was authorized in 70 I. C. C., 56, as collateral security for any note or notes which may be issued within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization therefor having been first obtained. Bonds of M. & St. L. R. R., 242.

Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., authority to issue and sell collateral-trust gold bonds; to issue and pledge as collateral security therefor first refunding mortgage-bonds; and to procure authentication and delivery to applicant's treasurer first refunding mortgage bonds, to be held in the treasury until further order of the Commission, granted. Securities of M., St. P. & S. S. M. Ry., 453.

**SECURITY—Continued.**

Missouri Pacific R. R. Co., authority to issue from time to time first and refunding mortgage bonds, by selling said bonds, or any part thereof, at not less than 90 per cent of their face value, or by pledging and repledging the same, or any part thereof, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act, granted. Bonds of M. P. R. R., 221.

New Orleans, Texas & Mexico Ry. Co., authority to issue first-mortgage bonds as collateral security for a note payable to the Columbia Trust Co., within the limitations prescribed by paragraph (9) of section 20a of the act without the Commission's authorization having first been obtained, granted. Bonds of N. O., T. & M. Ry., 271.

New York Central R. R. Co., authority to issue refunding and improvement mortgage bonds, and to pledge them with the Director General of Railroads as security for a demand note given in payment of indebtedness to the United States for additions and betterments made to its property and leased lines during Federal control, granted. Bonds of N. Y. C. R. R., 598.

St. Louis-San Francisco Ry. Co.:

Authority to issue prior-lien mortgage bonds to be pledged and repledged, from time to time, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of St. L.-S. F. Ry., 537.

Authority to issue prior-lien mortgage bonds to be pledged and repledged, from time to time, as collateral security for any note or notes which may be issued under paragraph (9) of section 20a of the interstate commerce act, without the Commission's authorization therefor having first been obtained, granted. Bonds of St. L.-S. F. Ry., 792.

Terminal R. R. Asso. of St. Louis, authority to pledge general-mortgage gold bonds with the Secretary of the Treasury as collateral security for the faithful performance of its contracts relating to repayment to the United States of any excess of advances over the amount of guaranty which may be finally certified pursuant to the provisions of section 209 of the transportation act, granted. Bonds of T. R. R. Asso. of St. L., 415.

Waterloo, Cedar Falls & Northern Ry. Co., authority to issue and pledge general mortgage bonds as collateral security for loans from the United States, granted. Securities of W., C. F. & N. Ry., 370.

Western Maryland Ry. Co., authority to pledge first and refunding mortgage gold bonds with the Secretary of the Treasury as collateral security for a loan from the United States, granted. Bonds of W. M. Ry., 480.

Wheeling & Lake Erie Ry. Co.:

Upon supplemental report, former report 70 I. C. C., 44, authority to issue refunding mortgage bonds for the purpose of pledging them with the Secretary of the Treasury as security for obligations arising under the National Ry. Service Corporation's equipment trust, granted. Bonds of W. & L. E. Ry., 41.

**SECURITY—Continued.****Wheeling & Lake Erie Ry. Co.—Continued.**

Authority granted to issue rent notes under a contract to be entered into pursuant to National Ry. Service Corp.'s equipment-trust agreement; to assume obligation or liability as indorser and guarantor in respect of obligations of the Service Corporation to the United States; to pledge with the Secretary of the Treasury refunding mortgage bonds, and interests and equities in other bonds to secure the repayment of a loan to the Service Corporation, and any obligation evidencing the same, and the performance of said obligation of indorsement and guaranty; and to transfer, assign, and set over unto the Bankers Trust Co., trustee under the Service Corp.'s equipment-trust agreement, interests and equities in certain securities subject to prior pledges, liens, interests, and equities therein, granted. Notes, etc., of Wheeling & Lake Erie Ry., 44.

Authority to pledge refunding-mortgage bonds with the Secretary of the Treasury as partial security for a loan from the United States, granted. Bonds of W. & L. E. Ry., 333.

Authority to issue refunding-mortgage bonds and to pledge said bonds with the Secretary of the Treasury as partial security for a loan under section 210 of the transportation act, 1920, granted. Bonds of W. & L. E. Ry., 518.

Authority to repledge refunding-mortgage bonds as collateral security for notes which may be issued under paragraph (9) of section 20a of the act without the Commission's authorization therefor having first been obtained, granted. Bonds of W. & L. E. Ry., 521.

**SELLING PRICE.**

Proposed sale of bonds at not less than 80 per cent of par, without cost of the issue and sale, found to result in an excessive cost to applicant. Issue of such bonds authorized only upon condition that they be sold to net not less than 90 per cent of par. Bonds of Alabama, Florida & Gulf R. R., 238 (239).

**SETTLEMENT. See FINAL SETTLEMENT.****SHORT TERM NOTES. See NOTES.****SINKING FUND.**

Leavenworth & Topeka R. R. Co., authority to issue first-mortgage bonds, part of which will be deposited with the Central Trust Co. of Topeka, Kans., for the purpose of creating a sinking fund as required by the laws of Kansas, granted. Bonds of L. & T. R. R., 288.

**STANDARD RETURN.**

The "standard return," fixed as the maximum which might voluntarily be offered, was based on the results from operation in the so-called test period of three years ended June 30, 1917, these being the most prosperous three consecutive years in the history of the carriers. It was therefore a liberal standard of compensation for the war use of property at a time when the country was enduring grievous burdens. Maintenance Expenses under Section 209, 115 (118).

**STANDARD RETURN—Continued.**

Paragraph (a) of section 5 of the standard contract sets forth a rule for measuring the compliance of the director general with the covenant of upkeep by reference to the accounts of the carriers, when kept in accordance with the Commission's requirements; the basic measure is the expenditure for maintenance during an average six months of the test period, adjusted to differences in the cost of labor and materials and in the amount and use of the property, in accordance with the provisions of paragraph (c); and differences in the "cost of labor," as these words are used in paragraph (c), do not include changes in the quality or effectiveness of labor, but only changes in wages. *Id.* (123).

**STATIONS.**

**Air Rights:** The Commission is not persuaded that the reservation of "air rights" of passenger terminals in the hands of private interests is in accordance with sound public policy. *Cleveland Passenger Terminal Case*, 342 (351).

**Construction:**

*Chicago Union Station Co.*, authority to issue first-mortgage bonds, the proceeds to be used solely in the construction of its union passenger station and facilities at Chicago, Ill., granted. *Bonds of C. U. S. Co.*, 191.

*New York Central R. R. Co.*, the *Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.*, and the *New York, Chicago & St. Louis R. R. Co.*—

Applications for certain certificates of public convenience and necessity under paragraph (18), of section 1 of the act and for certain authority under paragraph (2), in section 5, in connection with the construction in Cleveland, Ohio, of a new through passenger route and passenger terminal by the *Cleveland Union Terminals Co.*, dismissed. *Cleveland Passenger Terminal Case*, 342.

On rehearing acquisition of control of the *Cleveland Union Terminals Co.*, by purchase of capital stock, approved and authorized, and certificate of public convenience and necessity issued for the construction and operation of a terminal station and line of railroad constituting the approaches thereto in the city of Cleveland, Ohio. Previous report, 70 I. C. C., 342, reversed. *Cleveland Passenger Terminal Case*, 659.

**Location:** The suitable location of a passenger terminal within a great city is a matter which can best be determined locally rather than by a commission sitting in Washington, and a referendum vote is entitled to great weight in this connection. *Cleveland Passenger Terminal Case*, 342 (350).

**STOCKS.****In General:**

The judgment of a court of competent jurisdiction can not be made the subject of collateral attack before the Commission in a proceeding involving a proposed issue of stock. *Stocks of Denver & Rio Grande Western R. R.*, 102 (106).

Carrier sought authority to issue stock dividends from time to time, as further expenditures shall be made from income for additions and betterments, thus capitalizing such expenditures. *Held:* Authority should be requested when such expenditures have been made. *Securities Application of D. & T. S. L. R. R.*, 322 (323).

**STOCKS—Continued.****In General—Continued.**

A transfer of stock from one party to another does not fall within the purview of the act, and authorization therefor by the Commission is not required. Stock of Valley & Siletz R. R., 556.

Ahukini Terminal & Ry. Co. (Ltd.), authority to issue and sell capital stock, the proceeds thereof to be used in constructing and equipping a railroad on the island of Kauai, Territory of Hawaii, pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 198, granted. Stock of A. T. & Ry. Co., 509.

Americus & Atlantic R. R. Co., application for authority to issue stock to be used in the payment of the purchase price of a certain railroad, dismissed. Applicant failed to furnish information or any part thereof requested by the Commission on a questionnaire or list of interrogatories designed to elicit from the applicant information with respect to the application. Securities of A. & A. R. R., 757.

Arkansas & Louisiana Missouri Ry. Co., authority to issue capital stock, the proceeds thereof to be used in acquiring and rebuilding the property formerly owned by the Arkansas & Louisiana Midland Ry. Co., extending from Monroe, La., to Crossett, Ark., granted. Stock of A. & L. M. Ry. Co., 58.

Chicago & Illinois Western R. R., authority to issue and deliver non-cumulative preferred capital stock in liquidation of interest-bearing indebtedness, granted. Stock of C. & I. W. R. R., 652.

Cisco & Northeastern Ry. Co., authority to issue for sale capital stock, the proceeds to be applied to the costs of constructing and equipping applicant's line, and of additions, betterments, and extensions thereto, granted. Securities of C. & N. E. Ry., 260.

Denver & Rio Grande Western R. R. Co., authority to issue common capital stock without nominal or par value, granted. Stock of D. & R. G. W. R. R., 102.

Detroit & Toledo Shore Line R. R. Co., proposed issues of capital stock as dividends held not compatible with the public interest and application denied. Evidence fails to establish satisfactorily that the value of the road and equipment, plus a proper sum for working capital and for materials and supplies, exceeds or equals the present capitalization. Securities Application of D. & T. S. L. R. R., 322.

El Paso & Southwestern Co., authority to issue capital stock without par value in exchange for and retirement of all capital stock now outstanding, granted. Stock of E. P. & S. W. Co., 208.

Flint Belt R. R. Co., authority to sell capital stock, the proceeds thereof to be used in constructing and equipping a line of railroad pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 292, and as working capital, granted. Stock of F. B. R. R., 296.

Fort Smith & Western Ry. Co., authority to issue common stock without par value, which securities applicant proposes to exchange for first-mortgage bonds of the old Ft. Smith & Western R. R. Co., granted. Securities of Ft. S. & W. Ry., 777.

Interstate R. R. Co., authority granted to issue and sell capital stock, the proceeds thereof to be used for the purchase of property for, and the construction of, an extension of its railway heretofore approved and authorized in 67 I. C. C., 141. Stock of Interstate R. R., 7.

**STOCKS—Continued.**

Leavenworth & Topeka R. R. Co., authority to issue common capital stock to the Leavenworth & Topeka R. R. Aid Benefit Districts of Leavenworth and Jefferson Counties, Kans., in exchange for a like amount of aid bonds issued to the applicant by those districts, granted. Stock of L. & T. R. R., 632.

Long Fork Ry. Co., a subsidiary of the Baltimore & Ohio R. R. Co., granted authority to issue capital stock for delivery to the B. & O. in settlement for advances made for capital purposes. Securities of L. F. Ry., 330.

Milledgeville Ry. Co., authority to issue common capital stock and to exchange said stock for a like amount of applicant's outstanding first-mortgage bonds, granted. Proposed issue and substitution of stock for bonds would result in no net increase in capitalization and would relieve applicant from interest charges. Stock of Milledgeville Ry., 476.

Oklahoma & Arkansas Ry. Co., authority to issue capital stock to a contractor for the construction of a line of railroad extending from a point on the Kansas, Oklahoma & Gulf R. R. near Salina, Okla., to Kansas, Okla., certificate for which was authorized in 70 I. C. C., 448, and for one steam locomotive, granted. Stock of O. & A. Ry., 460.

Pittsburgh & West Virginia Ry. Co., application under section 20a of the act to issue capital stock and to assume obligation and liability in respect of certain securities in connection with the purchase of the property and franchises of the West Side Belt R. R. Co., denied. Such proposed stock issue and assumption of obligation and liability are for the purpose of purchase by the Pittsburgh and sale by the Belt of the property and franchises of the latter, which can not lawfully be accomplished without the Commission's authority under the provisions of section 5 of the act. Securities Application of P. & W. V. Ry., 682.

Springfield Terminal Ry. Co., authority to issue capital stock at par for cash, the proceeds thereof to be used to pay certain indebtedness on capital account incurred in connection with the construction of an extension of applicant's line, granted. Stock of S. T. Ry., 258.

Tennessee & North Carolina Ry. Co., authority to issue common capital stock in payment for the railroad property formerly owned and operated by the Tennessee & North Carolina R. R. Co., granted. Stock of T. & N. C. Ry., 96.

Texas City Terminal Ry. Co., authority to issue common capital stock, to deliver part thereof at par in part payment for the property formerly owned by the Texas City Transportation Co., which property applicant proposes to operate, and to sell part thereof at par for cash, granted. Securities of T. C. T. Ry. Co., 244.

Valley & Siletz R. R. Co., authority to issue capital stock to be exchanged for outstanding notes and interest, granted. Effect of the transaction will be the substitution of capital stock for interest-bearing demand notes, a reduction in the annual interest charges, the elimination of the debit balance, and the reduction of interest unpaid. Stock of V. & S. R. R., 556.

Waterloo, Cedar Falls & Northern Ry. Co., authority to issue and sell common stock, the proceeds to be used to meet current liabilities, granted. Securities of W., C. F. & N. Ry., 370.

**STRUCTURES.** See WAY AND STRUCTURES.



**SUBSIDIARIES.**

**In General:** Delivery of a note by a subsidiary to a proprietary company, without complying with the provisions of section 20a of the act which provides that it shall be unlawful for any carrier to issue any securities, even though permitted by the authority creating it, unless authorized by the Commission, is, by the plain terms of the statute, void, and no means are provided for validating it. It is not an obligation of the carrier, and may not be carried on its books as such. Notes of St. L., S. F. & T. Ry., 827 (828).

**Baltimore & Ohio R. R. Co.,** authority granted subsidiaries to issue various bonds upon the order of the proprietary company to the trustees under certain mortgages. Bonds of B. & O. R. R. and Subsidiaries, 90.

**Long Fork Ry. Co.,** a subsidiary of the Baltimore & Ohio R. R. Co., granted authority to issue capital stock and first-mortgage bonds for delivery to the B. & O. in settlement for advances made for capital purposes. Securities of L. F. Ry., 330.

**Oregon-Washington R. R. & Navigation Co.,** a subsidiary of the Union Pacific Co., authorized to assume additional liability, for a consideration, by the modification of the tax covenant of its outstanding first and refunding mortgage bonds. Bonds of O.-W. R. R. & Nav. Co., 99.

**Toledo & Cincinnati R. R. Co.,** a subsidiary of the B. & O. R. R. Co., authorized to issue first and refunding mortgage bonds to be delivered to the B. & O. and by it pledged with the trustee under its Toledo-Cincinnati division first-lien and refunding mortgage. Bonds of B. & O. R. R., 407.

**SYSTEM.**

**Contention** that losses incurred in operating a branch line must be considered as justifying its abandonment, *Held:* It has uniformly been held that the cessation of a particular service is not to be justified merely because it results in a loss, considered by itself. Consideration must be given to the business as a whole. Public Convenience Application of G. B. & W. R. R., 251 (253).

**Principle** that consideration must be given to the business of the carrier as a whole is not to be extended so as to include operating losses of a carrier in the operation of its affiliated companies, since that view would disregard rights of the minority. Nor is the question of profit and loss a matter to be passed upon by the courts alone. Such a construction of paragraph (18) of section 1 would condemn the provision on constitutional grounds, since any refusal on the Commission's part to consider operating losses might very well result in a denial of the application, so that the effect of the paragraph would then be to require the carrier to continue to operate at a loss, and amount to confiscation.

Abandonment of Hawkinsville & Florida Southern Ry., 566 (568).

**TELEPHONE AND TELEGRAPH COMPANIES.****Consolidation:**

**Chesapeake & Potomac Telephone Co. and Ohio Bell Telephone Co.,** certificate of advantage and public interest authorizing the acquisition by the Ohio Bell of the property of the Chesapeake & Potomac in the state of Ohio, issued. Proposed transfer will result in more economical and efficient operation since the properties will be merged and become an integral part of the Ohio company, eliminating considerable general office and other overhead expense and the inconvenience and added expense resulting from duplication of services where both companies operate in the same municipality. Acquisition of Property of C. & P. Tel. Co., 768.



**TELEPHONE AND TELEGRAPH COMPANIES—Continued.****Consolidation—Continued.**

Cumberland Telephone & Telegraph Co. (Inc.), East Tennessee Telephone Co. of Virginia, Bristol Telephone Co., and the Chesapeake & Potomac Telephone Co. of Virginia, certificate of advantage and public interest authorizing the consolidation of properties in Tennessee and Virginia into the Inter-Mountain Telephone Co., issued. Telephone users in these localities have been subjected to much inconvenience by reason of the maintenance of competing exchanges, and service as a result of this and other adverse conditions, has been unsatisfactory. Furthermore, the total investment of the consolidated company upon which rates in the future must be based will be considerably less than the aggregate investment of the four companies. Consolidation of Certain Tel. Cos. in Tenn. and Va., 705.

Ohio Bell Telephone Co. and Ohio State Telephone Co., certificate of advantage and public interest authorizing consolidation issued. Consolidation of these competing properties will eliminate much of the inconvenience and expense attendant upon the present method of operating duplicate facilities, and local rates will then be adjusted on the basis of the fair value of the property devoted to the service of the public. Consolidation of Ohio Bell and Ohio State Tel. Cos., 463.

Rock County Telephone Co. and Wisconsin Telephone Co., certificate authorizing acquisition of the Rock County by the Wisconsin, issued. Consolidation of these competing properties will eliminate much of the inconvenience and expense attendant upon the present method of operating duplicate facilities. Acquisition of Property of R. C. Tel. Co. by W. Tel. Co., 636.

**TERMINALS.**

**Air Rights:** The Commission is not persuaded that the reservation of "air rights" of terminals in the hands of private interests is in accordance with sound public policy. Cleveland Passenger Terminal Case, 342 (351).

**Passenger:**

The suitable location of a passenger terminal within a great city is a matter which can best be determined locally rather than by a commission sitting in Washington, and a referendum vote is entitled to great weight in this connection. Cleveland Passenger Terminal Case, 342 (350).

New York Central R. R. Co., the Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., and the New York, Chicago & St. Louis R. R. Co.—Applications for certain certificates of public convenience and necessity under paragraph (18), of section 1 of the act, and for certain authority under paragraph (2), section 5, in connection with the construction in Cleveland, Ohio, of a new through passenger route and passenger terminal by the Cleveland Union Terminals Co., dismissed. Cleveland Passenger Terminal Case, 342.

**TERMINALS—Continued.****Passenger—Continued.**

New York Central R. R. Co., the Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., and the New York, Chicago & St. Louis R. R. Co.—Continued.

On rehearing, acquisition of control of the Cleveland Union Terminals Co., by purchase of capital stock, approved and authorized, and certificate of public convenience and necessity issued for the construction and operation of a terminal station and line of railroad constituting the approaches thereto in the city of Cleveland, Ohio. Previous report, 70 I. C. C., 342, reversed. Cleveland Passenger Terminal Case, 659.

**TERRITORIES OF THE UNITED STATES.****Ahukini Terminal & Ry. Co. (Ltd.):**

Certificate of public convenience and necessity authorizing the construction and operation of a line of railroad in the district of Puna, Island of Kauai, Territory of Hawaii, granted. Proposed line should be of material benefit to the development of the territory which it would serve, and there is a reasonable prospect of its earning a satisfactory return. Public Convenience Certificate to A. T. & Ry. Co. (Ltd.), 198. Authority to issue and sell capital stock, the proceeds thereof to be used in constructing and equipping a railroad on the island of Kauai, Territory of Hawaii, pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 198, granted. Stock of A. T. & Ry. Co., 509.

**TRACKAGE RIGHTS.****In General:**

Agreements whereby one carrier proposed to acquire trackage rights from other carriers found not to fall within the jurisdiction conferred by paragraph (18) of section 1 of the act, and authority from the Commission for such grants are unnecessary. Cleveland Passenger Terminal Case, 342 (346).

Proposed contracts granting trackage rights only held not to be within the scope of paragraph (18) of section 1 of the act, and authority from the Commission to exercise the rights thereunder is unnecessary. Cleveland Passenger Terminal Case, 659 (662).

Green Bay & Western R. R. Co., proposed cessation of operation of trains under trackage rights over lines of the Chicago & North Western between Onalaska and Marshland, Wis., *Held*: Cessation of operations under ordinary trackage rights is not prohibited by paragraph (18) of section 1 of the Interstate commerce act. Public Convenience Application of G. B. & W. R. R., 251.

**TRAFFIC BALANCES.**

Alabama & Mississippi R. R. Co. (R. V. Taylor, receiver), which sustained a deficit in its railway operating income while under private operation in the Federal control period, found to be a "carrier" subject to section 204 of the transportation act, 1920. Amount payable in reimbursement of deficit sustained during Federal control ascertained, which will be certified in partial liquidation of an amount due to the President (as operator of the transportation systems under Federal control) on account of traffic balances and other indebtedness, and final settlement made. Deficit Settlement with Receiver of A. & M. R. R., 432.

**TRAFFIC BALANCES—Continued.**

The following roads which sustained deficits in railway operating income while under private operation in the Federal control period found to be "carriers" subject to section 204 of the transportation act, 1920. Amounts payable in reimbursement of deficits sustained during Federal control ascertained from which there is deductible a certain amount as due to the President on account of traffic balances and other indebtedness, and final settlement made:

Marietta & Vincent R. R. Co., 488.

Middle Tennessee R. R. Co., 177.

**TRANSFER OF STOCKS.**

A transfer of stock from one party to another does not fall within the purview of the act, and authorization therefor by the Commission is not required. Stock of Valley & Siletz R. R., 556.

**UNEXPENDED BALANCES.**

Boston & Maine R. R., upon supplemental application, report and certificate issued in 65 I. C. C., 402, so amended as to provide for the diversion of the unexpended or unobligated balance of the loan, to items of equipment and additions and betterments other than those to which the loan was dedicated; and also for an extension of the time within which the proceeds of the loan for additions and betterments shall have been expended or definitely obligated. Loan to B. & M. R. R., 679.

Chicago, Rock Island & Pacific Ry. Co., upon supplemental application, certificate issued in 65 I. C. C., 371, amended to provide for the extension of time within which the entire loan for additions and betterments shall have been expended or definitely obligated. Loan to C., R. I. & P. Ry., 563.

Indiana Harbor Belt R. R. Co., upon supplemental application in respect of the loan for additions and betterments, authority granted to offset underruns against overruns in expenditures and to use net underruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Certificate issued in 67 I. C. C., 89, so amended as to provide for an extension of time within which applicant shall expend or definitely obligate the loan in respect of additions and betterments. Loan to I. H. B. R. R., 806.

Long Island R. R. Co., upon supplemental report, certificate issued in 65 I. C. C., 247, amended to provide for an extension of the time within which applicant shall expend or definitely obligate the proceeds of a loan in respect to additions and betterments. Loan to L. I. R. R., 609.

New York Central R. R. Co., upon supplemental application in respect of the loan for additions and betterments of applicant and certain of its subsidiaries, authority granted to offset underruns against overruns in expenditures and to use net overruns for specific other purposes, and to apply specified amounts to specified projects not originally included in the purposes of the loan, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Certificate issued in 65 I. C. C., 503, so amended as to provide for an extension of time within which applicant shall expend or definitely obligate such loan. Loan to N. Y. C. R. R., 809.

**UNEXPENDED BALANCES—Continued.**

Rutland R. R. Co., upon supplemental application, authority granted to apply specified amounts to specified projects not originally included in the purposes of the loan approved in 65 I. C. C., 351, for additions and betterments to way and structures, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Loan to Rutland R. R., 818.

Shearwood Ry. Co., authority to divert unexpended balance from the loan granted in 65 I. C. C., 367, for additions and betterments to way and structures, toward the liquidation of certain indebtedness, granted. Diversion of Funds by Shearwood Ry., 339.

Terminal R. R. Asso. of St. Louis, upon supplemental application in respect of loan for additions and betterments granted in 65 I. C. C., 195, authority granted to apply specified amounts to purposes not originally included, in lieu of corresponding amounts to be abandoned or deferred; and time within which applicant should expend or definitely obligate the proceeds of the loan extended. Owing to sudden and radical change in business conditions certain items were rendered unnecessary, and owing to increases in labor and material costs, strikes, etc., certain other items called for overexpenditures. Loan to Terminal R. R. Asso. of St. Louis, 701.

Wheeling & Lake Erie Ry. Co., upon supplemental report, authority to divert the unexpended balance of the proceeds of the loan certified in 65 I. C. C., 217, for additions and betterments to way and structures, to the retirement of maturing short-term notes, granted. Loan to W. & L. E. Ry., 511.

**UNPAID INTEREST.** See **INTEREST.**

**VOID SECURITIES.** See **SECURITIES.**

**WAY AND STRUCTURES.**

Akron, Canton & Youngstown Ry. Co., application for loan to provide additions and betterments to, granted. Loan to A., C. & Y. Ry., 216.

Alabama Great Southern R. R. Co., authority to procure authentication and delivery of first consolidated mortgage gold bonds, for the purpose of reimbursing its treasury for expenditures incurred in double-tracking its line from Wauhatchie, Tenn., to Meridian, Miss., granted. Bonds of A. G. S. R. R., 800.

Aransas Harbor Terminal Ry., upon supplemental application, original finding modified and loan to aid in providing certain additions and betterments to way and structures included in a program of reconstruction of applicant's main line, destroyed by a West Indian hurricane, reduced. Certificate in former report, 65 I. C. C., 20, canceled. Loan to A. H. T. Ry., 203.

Chicago & Eastern Illinois R. R. Co., application for a loan to aid in providing additions and betterments to, granted. Loan to C. & E. I. R. R., 558.

Cowlitz, Chehalis & Cascade Ry. Co., application for a loan to aid in providing additions and betterments to, granted in part. Loan to C., C. & C. Ry., 580.

Erie R. R. Co., upon supplemental report, former reports 65 I. C. C., 184 and 317, additional loan to aid in providing additions and betterments to, granted. Loan to Erie R. R., 361.

**WAY AND STRUCTURES—Continued.**

Huntingdon & Broad Top Mountain R. R. & Coal Co., upon supplemental report, applicant having failed to furnish surety bond as security for loan approved in 65 I. C. C., 499, to aid in making additions and betterments to way and structures, and having secured financial aid elsewhere, certificate canceled. Loan to H. & B. T. M. R. R., 395.

International & Great Northern Ry. Co., upon supplemental application, carrier representing that the loan granted in 67 I. C. C., 129, in respect of new rail, is not now needed, amount of such loan reduced. Loan to Receiver of I. & G. N. Ry., 336.

Maine Central R. R. Co., upon supplemental report, former report 65 I. C. C., 203, additional loan to aid in making additions and betterments to, granted. Carrier is not now in such financial condition that it can procure a loan from bankers or from any other source, using its bonds as security, at a reasonable rate of interest. Loan to M. C. R. R., 366.

Monongahela Ry. Co., application for loan to provide additions and betterments to, dismissed. Loan tentatively approved by the Commission, conditioned upon the applicant providing an equal amount to be expended for like purposes chargeable to capital account. Applicant unable to meet this condition, and requested the Commission to dismiss the application. Application of Monongahela Ry. for Loan, 326.

New York, New Haven & Hartford R. R. Co., application for a loan to aid in providing additions and betterments to, granted. Loan to N. Y., N. H. & H. R. R., 399.

Rutland R. R. Co., upon supplemental application, authority granted to apply specified amounts to specified projects not originally included in the purposes of the loan approved in 65 I. C. C., 351, for additions and betterments to way and structures, in lieu of corresponding amounts now desired to be curtailed, abandoned, or deferred. Loan to Rutland R. R., 818.

Western Maryland Ry. Co., application for a loan to enable applicant to enlarge its grain elevator and elevator facilities at Port Covington terminal, near Baltimore, Md., granted. Loan to W. M. Ry., 387.

**WORKING CAPITAL.**

Federal Valley R. R., authority to issue promissory notes, the proceeds to be used in creation of a working capital to enable applicant to maintain and improve its service, granted. Notes of F. V. R. R., 524.

Flint Belt R. R. Co., authority to sell capital stock, the proceeds thereof to be used in constructing and equipping a line of railroad pursuant to certificate of public convenience and necessity issued in 70 I. C. C., 292, and as working capital, granted. Stock of F. B. R. R., 296.









